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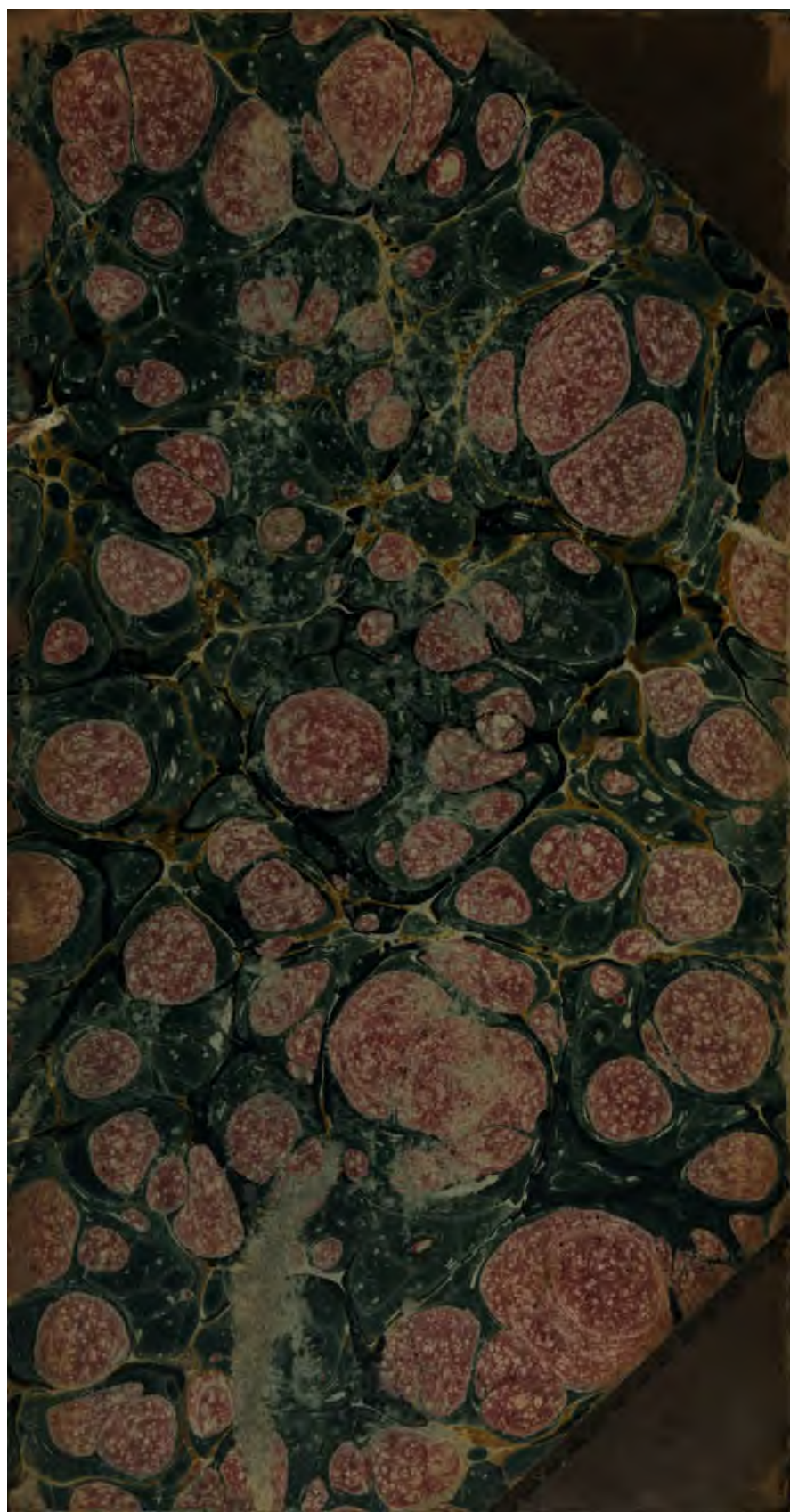
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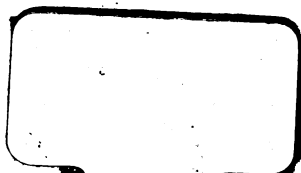




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MORAL RIGHTS.

G. WOODFALL, ANGEL COURT, SKINNER STREET, LONDON.

✓ AN

1831

EXPLANATION

OF

MORAL RIGHTS;

IN

A PRACTICAL VIEW OF THE SUBJECT,

AND

AS OPPOSED TO THE ERRONEOUS IDEA

OF

NATURAL RIGHTS.

BY GEORGE GILES VINCENT.

London:

THOMAS CADELL, STRAND.

1830.

795.

PREFACE.

IN offering another work on the subject of *Morals*, some apology is felt due in respect of the former, that it did not contain the explanations here given, and which are requisite for the better understanding the subject ; as it is hoped the present work will prove, in the explanation contained in it.

In proceeding to the original consideration of the subject, a great difficulty was found in the want of a defined meaning of the terms “ moral ” and “ morality.” That having been supplied in a manner considered sufficient for the purpose of affording a definite idea of the subject ; and the principle of all human action or morals being adduced in the good or benefit of man ; the present explanation was not then entered into ; and it may be admitted that those views and considerations of the subject were not sufficiently matured, which are now given. Explaining however the term “ moral ” and adducing the principle of all human action ; the author seeing its application and the importance resulting, deemed it not right to with-

hold publishing ; and publishing, deemed it not right to omit the conduct to be observed by men in conformity with the principle as adduced : otherwise the subjects (the public) whose service was intended, were left without this direction, in what was conformable with the principle, and a wrong direction of men's minds, might have been the result.

However right, what was done appeared to be in the reflections which gave rise to the work, and right this certainly was in its object, and as far as it went, the author is most ready to confess his disappointment in the success of his labours. Not, he intreats the reader, to think so much on account of his, the author's own credit, or fame, or of his time, or of his exertions, which latter have not been small ; but that the benefit has not been produced which was intended, by calling the attention of others to the subject. The impressing on the world, of the importance of the principle, namely, that of the welfare and happiness of men, as the authority for all human proceedings ; and the duly applying which, and shewing how it operates, to induce the moral conduct of men, appears to the author the way in which a right knowledge or understanding of morals can be arrived at, and the improvement of men proceed in a regular and scientific manner ; which however slow, or gradual the degrees of its workings may be, can only through such means certainly, and permanently, be accomplishable.

The author in this reflection, his own labours far from regretting, feels, that without that had

been bestowed by him upon the subject which he has, he never could have arrived at that consideration of the subject by which he now attempts, and hopes most confidently he may have succeeded in, to lay the foundation of improvement in the condition of men; by the explanation of moral rights as to their origin or authority, and the moral obligations or duties of men. By which as men may see the true nature of these, they will the more value and regard morals, as the means of effecting all human good: and that errors, failings, prejudices, and ignorance in this respect, which may have stood in the way of the better acting, and conduct of men for that great end and object, may by degrees be dissipated; and in fine, the improvement of the condition of man rendered by it.

On what has now been done, the author will say no more, that he may not anticipate his work; but will refer the reader to what he may find in this book. He only requests that whoever takes up the work will read the whole before he judges; and he feels assured it will be found and acknowledged, that every thing virtuous and good is most satisfactorily sustained, and nought otherwise.

The present work may be considered as a whole of itself, without reference to the former work; unless for the satisfaction of the reader, or the curious in enquiry, or those wishing to possess both volumes as containing what has been said by the author previously upon morals in his former volume. A sufficient definition of the subject, it has been considered has been made in the present

volume to give a correct idea of it to the reader, of what is referred to; and what is therefore the subject matter of consideration: and probably as more concise, and in a more easy and familiar manner, better than has been done on the former occasion for useful purposes; as more free from complexity of statements, which may confuse and perplex the reader.

It may also be mentioned, that some matters are mentioned in the former volume, that have not been thought necessary to introduce here under the proposed explanation.

In the former volume, four subjects are referred to as general heads for the consideration of morals. One of these has been omitted in the present volume, as not considered necessarily forming an original subject, that alluded to which has been omitted is comprised under the head of promises, agreements, contracts, and engagements, and the like, and what has generally been termed, faith between men; but which latter term in fact applies to all good. Now these matters are merely practical measures or means, and are not original or chief objects.

The subject, therefore, of promises, agreements, contracts, or engagements is omitted, and left to the ordinary means by which the illustration of their use and benefit, or good, are acquired in practice in life; and the good, or necessity of them for good, is sufficiently obvious, and evident, than to render it necessary in a work, being an explanation of the subject itself to which they are merely subservient, to enter upon, by way of ex-

planation or exposition of their use and advantage. Or, however necessary or useful the consideration of them may be, their explanation and inculcation in more particular discussions, when treating of or detailing particular matters relating to the subject, are left for such occasion.

If any apology is necessary for having introduced the subjects in the former volume under general heads, as being not required, on the ground that it may lead to mistakes, the using or referring to them out of place; the author trusts it to be not of any great importance, since he believes their being out of place is all the fault to be complained of. The author however is free to confess, they are in point of order wrongly introduced. As such it was an error. He ascribes the mistake he was led into to have arisen from the manner and importance in which they have been mentioned by other authors, who have considered them, and made them the chief subjects of their explanation; and which most certainly served to direct the author's attention to them as leading subjects for heads to classify the great and chief matters of morals. To which chief matters the author confines himself, for the purpose of general explanation and instruction, as a system; or for the science of morals.

An observation, however, may be here made, as generally applying to most authors, that no stronger instance can be given of the deficiency of the science of morals, than is done by their supporting and maintaining morals by the precept, which they do by these explanations of the

precepts, as the most important matter for moral instruction; whilst the authority of moral rights, and the moral obligations or duties of men, are comparatively neglected or unknown.

It may be complained of, the very short statement given in this work, and therefore its supposed inefficiency for its object. As the brief compass in which so important a subject is contained as the subject of this work, can never, it may be considered with some, be sufficient for the object proposed; and that a work that is to give the explanation of morals, as to the authority of men's rights, and their obligations or duties, should occupy more attention, both of the author, and of those to be instructed, than so short a statement apparently should require; and the observations to be made would, as a matter in consequence, extend over many more pages. To this it is answered, that the reflections of the author upon the subject have been of no mean extent, either as to the time it has occupied him to consider it, or the intenseness of his application in his considerations upon it; and that, that which is to convey to men the knowledge requisite in regard to the authority of their moral rights and duties, ought not to be of an elaborate or extended form. The one would be difficult of gaining the common attention of men, and of their comprehension; and the other would fatigue and trouble them too much to look at it, or to enquire into it; or rather would dishearten and repel them from reading and studying it: and whatever is to be efficient in use, for general instruction, must necessarily be short, or

confined to a small compass, and clear and convincing at the time, or it will not do for general purposes of instructing the multitude, and of ready use. Moreover, the purpose intended here is only to give the authority to men for their moral direction. The particular matters, or acts moral, must be left more to practical instruction at first, and next to education, and monitory lecture, to explain the practice, and precept, and shew their moral agreement and utility. It is the base, or foundation, or authority for the moral rights and the moral duties that is wanting in explanation, in regard of that men all feel, and more or less accord with in practice, from necessity and experience. And without this explanation is given, and men are set right, they may be always wandering, and which in morals, and ideas, and estimations in regard to which they can only be considered as doing to the present time. The books, disputes, and arguments of the literary world on this subject shew this; and the various ideas, and prejudices, and general ignorance of various people and nations, are further proof. But what is required to set them right in the beginning is of small compass, and necessarily must be as a foundation or authority from which all they know and feel practically, as has been before said, is more or less based or governed. But it requires to be explained or made evident to their mind in a reasonable way, that they can clearly see and comprehend this, and then they may know better what will be consistent with, or conformable to this, and with their true interests.

The matter to be explained may be comprised in very few words itself, as it appears to the author; for nothing more seems wanting than the explanation of the moral authority of men's rights, and of the obligation to do good; and which is the gist of the business here attempted. Of course some introductory explanation is required, and observations will be requisite to explain why this is done, and wherefore thought necessary; but which it is considered will only illustrate the subject, better prepare men's minds for the consideration of it, and render them more satisfied of the requisiteness, and of its use, and of the benefit that must be resulting, and which can only be morally effected through moral means.

The author is only apprehensive that what he has done is too voluminous, for he is no ways so for its shortness, if he has sufficiently clearly expressed himself. The simplest or plainest modes are always best for the attainment of any point or object; and this obvious maxim will hold good in morals, or human happiness—the object of morals, as in all other cases; and with this observation he proceeds to the proposed work.

G. G. V.

CONTENTS.

	Page
INTRODUCTION	xiii
Explanation of Moral Rights, generally	1
Consideration of Personal Rights.....	72
Consideration of Rights to Things, or Property	91
Consideration of Rights in relation to Government or Law..	182

ERRATA.

Page 28, top line, " it exists on other ground", read " it exists on no other ground".

Page 41, second line, " or principle or moral rectitude", read " or principle of moral rectitude".

Page 150, twenty-seventh line, " to them ", read " to that ".

INTRODUCTION.

BESIDES the cause of science in the pursuit of knowledge, the occasion for entering upon the subject of Moral Rights in the present day appears important, when it is reflected, in this time of knowledge and enlightenment, what are the ideas that men entertain upon the subject.

Let them advert to the fact, of what that state of knowledge is, and the notions and ideas that are entertained relative to these subjects.

These notions may be estimated by the common terms or phrases used, and the mode of describing matters in relation to these subjects;—such as describing the rights men are entitled to as natural rights, and liberty being the birth-right of Englishmen,—as if such rights alone were the peculiar property of Englishmen, attached, or belonging to their persons, or the soil which gave them birth, and as if rights were born with man in his person. They may be more correctly considered in England, or more rational notions and practice with respect to them may be found to

prevail in England than elsewhere; but which rights, nevertheless, as a moral matter, belong to all men.

Again, an idea may be estimated of the notions of rights, so commonly and often asserted, of doing and acting as men like over themselves, and their own, or what they so term or mean by such words; when rights are a matter of grant, and the subjects of rules, laws and restrictions, and in these of moral obligation and duty.

Again, the crude and undigested notions of men may be witnessed in the ideas or notions they entertain of liberty, and the rights of men in this respect, and the terms and modes of describing it, and the explanations given in regard to it; liberty being viewed or held as the natural right of men belonging to all in nature; making it out, in such idea or notion of it, the mode or manner of a wild creature, to roam, and wander, and act, and do as they like. But liberty, and men's rights, in this respect, are considered to be a moral matter, of moral origin, and not a matter inherent in man.

That the ideas of men on these matters are as it were in embryo, and yet unformed in correct notions of rights, and of liberty in respect of right to such, is considered to be evident; and that such are still the subject of the error of the world in these respects, let the circumstances of recent date be adverted to, of what are apparently the notions of men of the first talents. When it is seen, therefore, one of the first talented men of the day, one who stands foremost in his profes-

sion as an advocate, whose aptitude at explanation must make the most dull comprehend the most difficult and intricate matters, who is unequalled in his powers in this respect, and certainly whom it is impossible to conceive can be surpassed,—if such high example in stating ideas of liberty, and in an explanation in respect of it, adopts the notion which is to be found in Blackstone, namely, that man in society sacrifices a portion of his liberty and of his rights in this respect, that he does so as a matter of necessity, and that the compensation is to be looked for in the benefit received in return. Without diminishing the esteem of the author of that most commendous work of the Commentaries of the Laws of England, or the talents of those adopting the notion, no better evidence or illustration need be given of the general and prevailing notions on these subjects.

The notion of a sacrifice of liberty, or a portion of it, is an incorrect notion, founded on the idea that liberty, and a man's rights in this respect, are his own, existing *per* force of his nature, innate and inherent in man; and if so, men certainly do give up, or sacrifice a portion, indeed a very large portion of it, in society, and in a moral state. But it is considered here, that men in society give up none, and that it is only in such a state that man can claim or take his liberty, or any right in this respect. It is meant in a moral or rational sense; and the error of men is, confounding the freedom of nature, and to act unrestrainedly, and as they like, or choose, with liberty.

Liberty here is considered as a moral mode of action or power ; and right to this can only be received of men. What, therefore, a man submits to have cashiered or invaded of rights, in that which he receives at other hands, cannot be seen. The only point or matter a man would suffer in, would be in the matter of justice, if he had not his fair share or portion of liberty, or right, or privilege of acting, or doing as another. But what condescending sacrifice any man makes of his rights in this respect in society, or to others, in regard to what is his own, can be only in supposing his rights were his own innately, or by inherency, and extended to the most perfect state of freedom that it is possible to imagine in nature.

This is certainly an incorrect or unsound notion of liberty. It may be an idea resembling liberty in the power of action, or doing as men may wish or like, but as incorrect, it is liable to mislead, and does mislead, in making men restless and dissatisfied at control, and by giving men a haughty and vaunting air in their imaginations, by a wrong conceit of their rights, and consequently in their actions, in regard to the exercise of their privileges or rights, or what are supposed to be so, and that unfits them to assimilate and harmonize their ideas and conduct, agreeable to humanity, the rights of others, and consideration for them.

In such errors on the subject, the impatience at controul raises an acerbity or bitterness in man, with selfishness, incongruous with the kinder and

more generous regards of humanity. Politically, besides, its consequence is of the greatest importance, both in preventing men having just and correct notions of their rights, and as raising opposition to all laws of restriction and control. But neither politics nor polity are matters of consideration here; and it is to errors, and to correct errors alone that this work concerns, in the moral notions or ideas of men; and therefore it is endeavoured to set before men correct notions of the subject of rights.

In moral rights, men will learn, that whatever good or benefit they are entitled to, is dependent on others, in the moral grant of it, by the esteem or consideration of men of what is right or proper, or what ought to be, in that which depends on men, or is brought to pass by human agency. They will be taught in this a more correct notion, and will learn in morals how they are indebted to others for their good or benefit, and so dependent, will feel their condition more humiliated, and be rendered fit to accord and agree with the regard and consideration of others, and the general interests of men; and that for the good they are entitled to at the hands of others, they become subjects of the moral obligations and duties of men, in that regard or consideration, and this as a debt or return for what they are so beholden to or indebted of men.

But such as have been noticed, are the ideas of men as to what concerns them, of subjects of such high regard and of such importance to man as rights and liberty. And it is not to cast any

reflection on any work, on any age, or any person, but to shew the common notions of the day among men informed, and of high education, or pretending in any degree to learning and information, or intelligence, that reference has been made to one of the most talented, and holding high office in his profession; to shew what are the ideas pervading the best informed, and possibly men generally, who are the most considerate on the subject, and which, therefore, may be considered as being the more common ideas of men generally of society well informed, or who value themselves for their education, their acquirements, and their talents.

But it is considered that it can be shewn how men derive their moral rights, on reasonable grounds that can be made clear and satisfactory to men.

The attempt is made; and science and knowledge can only be gained by inquiry, and ascertaining facts, that shall satisfy the mind of what is the truth in this respect.

In order to prepare men's minds for the consideration of the subject, it is proper to call the attention to what is called or meant by the term "grant", when it is said men grant their rights to one another.

What is meant by "grant", is merely to express their assent and approbation as to that dependent on or resulting from men or human agency, such as what men admit, or allow of, or consent or agree to, as to one another, as right, or proper, or ought to be, or what they esteem or

consider as such ; and therefore is the rule of action, or ought to be so, of men, for their regulation or direction towards or in respect of one another. For what men esteem or consider as right in relation to what is good, or as just or proper, and ought to be in regard to each other, and should govern or regulate them, men may be said to grant, or they do grant each other, in their esteem or consideration.

Thus it is said men grant the right to one another of their good ; and in this, to live, or to their lives, and the right in things or property, and to justice and protection by the law or government ; for these things they admit, or agree to, or esteem, or consider that they are right, or proper, or just, and what ought to be ; and so having the esteem or consideration of men, or their judgement, to be proper and just, are morally granted by men.

It is not meant under the term moral grant, an act of law, or a deed, or record, or a declaration is made or done ; but only that a rule is morally raised or supplied in men's judgement and esteem, by which acts ought to be done, or men regulate their actions, or by which they consider their acts ought to be regulated or directed ; and is therefore morally their rule or authority in this respect.

By such plain and easy means of comprehension is it that the moral authority is derived, and of the truth of which it is hoped to satisfy men's minds, in the explanation proposed to be given.

The present object being confined to the consideration of morals, the higher authority of reli-

gion is not considered here. Morals are adverted to purely as a science; that of human nature, as to its power or authority in his reason or judgment, for his (man's) actions; and is considered as a general means of information of men, and for their improvement.

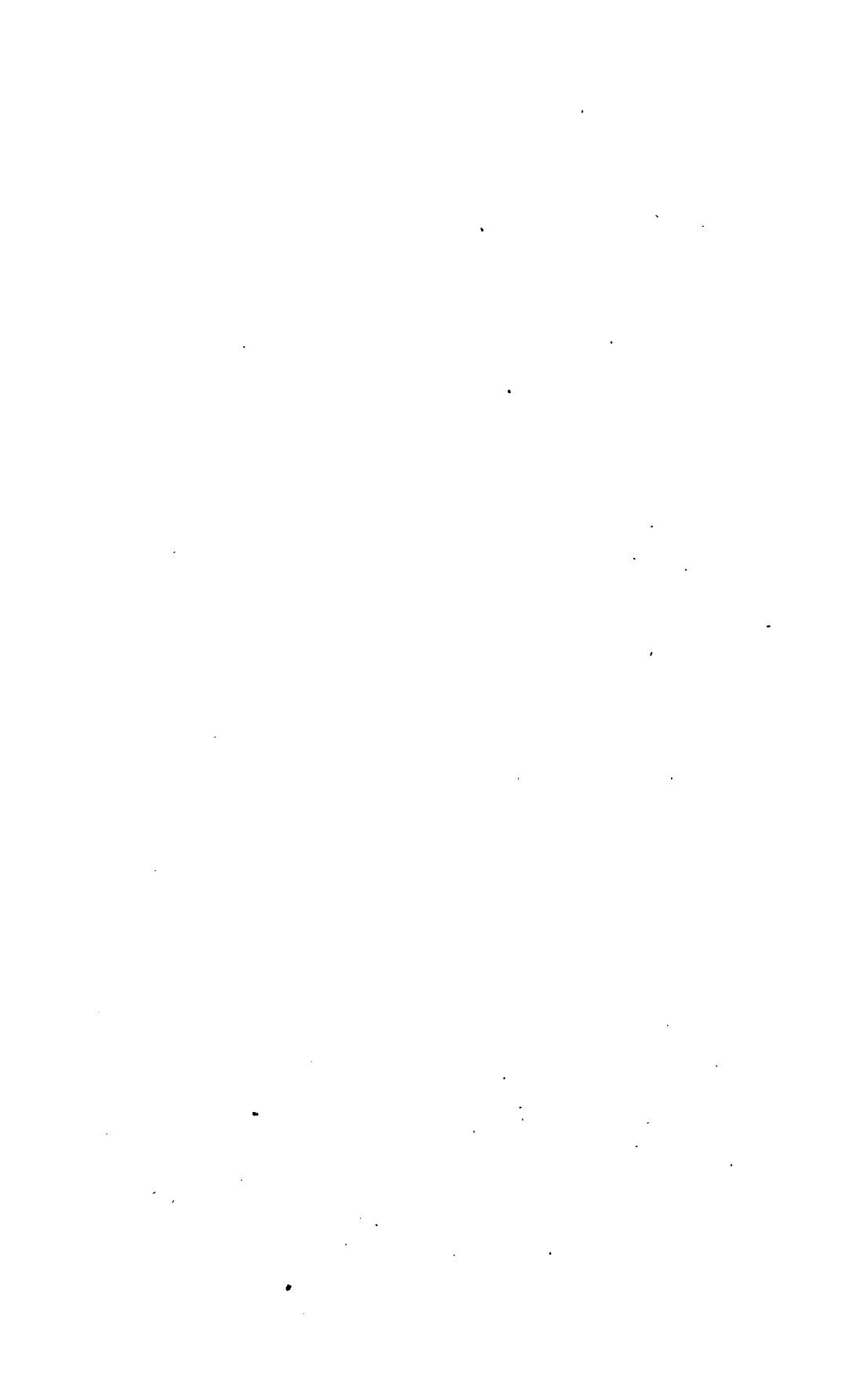
Morals have been considered, may be separately viewed as a subject of themselves; and that, clearly stated and argued, will have much greater effect than has been supposed over men, in directing and controlling them, and improving them in their conduct and condition; and which it is hoped will be made evident in the subject of rights.

It may be a question asked, Of what force are morals, as to their authority with men, and what is the power over men of the moral obligations and duties, after they have been explained, and made plain and most evident? The answer is, the moral force or power is that of men's reason and judgement; and what is made clear and satisfactory to men's minds, and in that which moves all men in their good and benefit, it cannot be imagined a stronger impulse or influence can be raised, short of that which is superior to all other considerations, and to which all men must bow, of religion, in the contemplation of the Creator; and of what is good, being, as far as his reason can direct man, agreeable to the system of the creation. In fine, what motive can be stronger with rational or moral man, than what he sees is right and proper, approves, and is a just claim of him on others, as well as of others on him; and

for the object that moves him in that which is good or his benefit.

The subject of moral rights, as the law or rule upon which men proceed in morals in their actions esteemed or approved, may be much dilated on : but it has been thought enough in the present instance, to set forth and establish the authority of moral rights, as the rule of men's direction ; and the consideration of them, in reference to the chief matters, or heads to which they relate, or human actions relate or concern, or under which they may be comprised.

Events in a neighbouring country, which have happened since the completion of this work, but prior to the last sheets going to the press, render it more desirable than ever that a clear and true exposition of moral rights should be offered to mankind.



MORAL RIGHTS.

EXPLANATION OF RIGHTS, GENERALLY.

MORALS embrace whatever relates to or is brought to pass by human means or agency, in distinction to natural causes and effects. Morals under this definition, or the moral world, or the compass or sphere of morals, comprehending every thing concerning man, is more diffuse than it is meant or intended to be considered in this work. That which concerns rights as arising from or dependent on man, is alone the subject of consideration here. The motive or principle in morals, or what moves man in his esteem or approval of all he does, is his good or benefit; for as things and his actions agree or not with this; so are they approved or condemned by him accordingly; and rights compass or comprehend this good.

The question for consideration is, the good or benefit of men, as morally depending on themselves, or that is obtainable or to be effected by their actions, or by their power or agency; by what means do men derive or acquire their right,

or title, or claim, in this respect, to their good. In which term of good is comprehended their lives, their persons, their freedom of action or liberty, their property, and the benefit of protection and justice under government and law, and these well, and generally their welfare and happiness. Men, in their judgement, consider their right to their good to be just and proper, and should be maintained and promoted by their moral power or agency; and they do, by this consideration or judgement that men should have their rights, morally grant their rights. But if men deny that they grant their rights to one another, then it is not seen that they can have any right morally in respect of their good, or to their lives, their persons, their freedom, their property, or to their benefit, and to justice under the protection of government and law.

Religion being the highest authority man can have for his conduct, to seek for other grounds, or reasons for sanction, seems superfluous. But the inquiry proposed on the moral rights of men, as to what they are founded on, or whence derived, or his claim or title to his good, as morally resting with, or dependent on man, can in no way be derogatory to religion. On the contrary, it must harmonize with it, aid its cause, and be that which, in all rational consideration, must be favoured by good men of all religions, as agreeable or consistent with their true object. It is in the rights of men that all notions of right and wrong relatively, or what is proper or improper, or consistent or otherwise, for the human good depend.

dent on men arise, and the moral obligations and duties proceed.

Religion is not superseded by morals, or prejudiced by the study of moral rights, but, nevertheless, as morals are what is proceeding from man, or through human agency, or affected by such, the inquiry is necessary for human direction, to explain to man the nature of that derived from moral sources in the agency of man; in fact the nature of himself as to what is of regard or concern to him, as proceeding from, or affected by himself, how it arises, proceeds, and is to be effected. Intimately involved and complicated as human interests are one with another, the moral rights are the good of men as they are related or connected one man with another; and, in the inquiry and explanation proposed in respect of moral rights, men are in fact only inquiring into, and explaining, the mode or law of human actions in the complexity of their relations.

Of what avail indeed would be the faculties of the human mind, the discernment, the reason, and the judgement, if they are not to be used for the discovery of what is good; and therefore consistent with the command of the divine will, and equally consistent with the nature of man, who is required by such command to perform the divine will? Man may fail in his seeing or discovering this; but, as a reasonable being, reason must be ever considered as his guide, and when he acts from the dictates of this, and follows what it directs as well as he can see and judge, he is at least doing all that he can to the fulfilment of his

destination, and his failings then do not remain with himself, but are the weakness and fallibility of his nature. The mystery of which nature he must contemplate with awe, but cannot explore.

Let it be clearly understood here, and once for all, that what is attempted here is but explanation.

But let it be asked, is it not an object of first importance to religion that men should do good? and that it may be allowed to build an argument on the affirmative of this question, since it is most confidently felt no man will deny this request. Assuming, that to do good is the first object and concern of religion, and of every religion; and with all men as a rule or principle, according to what can be meant or understood by men. How, then, is that main and final object and principle of all morals, and of every thing religion enjoins of doing good, that highest and first duty of men to be effected, if it is not to be effected by moral means, or brought to pass through human agency? To do good, men are to act; to act, they must be instructed; and the act and the instruction is the moral agency, and the moral agency is through the powers possessed by men.

It would be in vain to attempt the moral improvement by religion with men of different persuasions, as men would never receive the authority for doing good from a religion differing from their own; and it appears to be a measure of positive necessity, in order to improve and instruct mankind, to cultivate morals, or the knowledge of the laws, or rules of human conduct; otherwise the world must wait all improvement till

men are all converted to one and the same religion ; and for this it must be supposed, that to do good is of no concern, provided it is not done in conformity or obedience to one particular religion.

People, out of goodness and zeal to promote their religion and make proselytes, but neglecting the science of morals, unless supported on their faith, seem to forget that morals are necessarily thus made subservient to conversion, and are passed by or disregarded without that is effected ; and that good conduct in men is of no account or esteem for its own intrinsic worth. At the same time, the very laudable object of these (as they must be esteemed) good and amiable men, is to correct men of their vices and ferocious habits. In consequence, in those regions where the exertions of the good and religious are particularly directed, however desirable it may be, and is, to curb the wildness, the ferocity, and bad prejudices of men, in partially civilized states, and to check and reform the horrible inhuman practices often found among such, that desirable end is wholly neglected, while the efforts to improve or reform are confined to the conversion of men, or to civilize and regulate their habits and practices through obedience to the rules and doctrines of the particular faith endeavoured to be promoted. And however good and admirable are the intentions of such devotees in conversion, the means they take for the improvement of the state and condition of their fellow-creatures, are more calculated to retard the object of their good offices,

through the prejudices and offences they give rise to, which are taken by those who differ from them in such serious matters as that of their salvation, as it must be so considered by every rigid believer in the faith he professes. But let it be asked, is it not desirable that the condition of men should be reformed in humanity, where prejudices of the most hostile nature to human existence and happiness exist; such, for instance, as may be found in predatory nations and people, whose only restraint from war and pillage is in their weakness or want of power to execute, (what they nevertheless in sober reflection can never approve as human doctrine, but adopted from habit, assimilate with their ideas of what is estimable,) namely, perpetual war, or a life of prey, mutual hostility and destruction? Such, again, as those rites among other nations and people, of self-immolation and destruction; and those of the sacrifice or destruction of females and female children; and of that deplorable custom of infanticide; and many other odious and pernicious customs and practices in the manners of people which are found among half-civilized nations, and where men are educated, and their morals grounded, only in prejudices, habits, and customs, but where the science is not known as open to the inquiry and scrutiny of the human faculties. All these reflections must satisfy every one who possesses the least enlightenment, of the desirability of the moral improvement.

But if it is supposed the moral state and condition of men is never to be improved but by con-

version in religion, great and wise governments would prove the contrary. The promoting virtue, and dispensing justice among men, and good laws for the regulation and happiness of the subjects, and the punishment of vice and disobedience of the laws, shew morals to be the object and care of the highest of human authority; and the admiration and the esteem by men of wise lawgivers and good governments, prove the estimation in which morals are held. But how is it that men are jealous of morals when considered as a science to be promoted by human inquiry and investigation, and are arrayed against its utility, or its authority, without it comes to them under the form of their faith? That this is the case cannot be denied if the works written upon these subjects are consulted, should any person be ignorant of the fact. This, however, it is considered, savours of prejudices, and the want of expansion of mind, which, from whatever good motive or intentions of the persons entertaining such jealousies, ought not to be seen in the character of true enlightenment and humanity in the present day. That such ideas may cease to disturb or annoy the feelings and reflections of those, who cannot but be considered and valued as really among the best disposed and best informed, though holding to the formula of early prejudices or blinded partially from fixed habits or ideas on such subjects, it is hoped, in the following pages, to satisfy of the futility of these their notions, by the soundness of the doctrine that it will be endeavoured to elucidate : and that

all animosity may cease between people of different religions in the consideration of moral rights, inasmuch as they are the first and final object of every religion when duly weighed, is most fervently hoped and wished. And it is assuredly felt, that these sentiments are strictly borne out in the construction of the charitable doctrine of Christianity.

That the explanation of what is moral and good is the practice of men, it is proposed to make this short reference to men themselves. How is it that men determine and settle what shall be right or good relatively for men, or proper to be done? Do not all judges, and expounders of the law, ground all their decisions on what is right, morally speaking, as being consonant with what is moral or good: or where apparently not directly so, yet indirectly so, or so under all the circumstances of the case they may have to decide? What is this but men judging and explaining what is good, and why this or that act or thing is right, and it is done, or ought to be done? If any men have a dispute or difference, how do they settle this, but by judging what is right, as the best mode of decision; and what is this but by what is good morally so considered; or most beneficial; and what is this but moral explanation of the good, and acting on the reasonableness of the ground, or that they decide on being most good, or most for the benefit of men? Men, then, in fact, do judge by what is morally right, or the good. And how proper and necessary, therefore, is it that they should direct their inquiries to the subject of Moral

Rights, on which all ideas of right and wrong relatively are founded; and have it explained in a clear and perspicuous way, if it can be done, what is moral, or the rule, or law, or nature of man, as to his actions, esteemed or the contrary.

It is generally asserted, that the foundation of morals, not built or deduced immediately from the will of God revealed to man in religion, is unsound, and that it cannot be shewn that men are under any obligation to do good: and this is a point challenged against all morals and ethics generally, not founded on the divine will revealed,—that morals, or what is good, not so ordained or founded, have no authority for obligation or duty; and none can be shewn; for that no human reasoning can shew why men are under obligation to do good on human authority. That human powers, in short, are insufficient to shew or establish the obligations or duties of men in a moral point of view, or in other words, that without religion there can be no duty or obligation of men one to another, is, it must be confessed, at first sight appalling to all human efforts to establish morals. But a little reflection will soon calm these apprehensions; and as it is trusted a few observations will shew, and it will more particularly be shewn or explained afterwards, in the course of this work. But to set the mind at ease on this point at once, let it be asked in this part of the work, are men under no obligations to one another? And if men can suppose they are not, then they have certainly no authority in morals that man can shew for human doing good.

But it is trusted a moment's reflection will settle this point, and comfort men's minds. It is considered, then, that the mutual obligation of men to one another, for each other's good and benefit, to be obligation ample over men for what is good; and that in the good derived from one another, the duties and moral obligations arise and result as a return, and are extended to the utmost cases of human actions, or in which human actions can bear relation to men. It is trusted this shall be shewn in the most satisfactory manner; and that by it the moral obligation and duty of men shall be rendered the stronger; and by it mankind rendered more considerate and regardful of each other, and more happiness conferred generally throughout mankind.

This appeal, in the beginning of this work, in respect of Religion, is made not more to shew the necessity of studying morals as a science, than to satisfy the truly well disposed and enlightened, yet that may be timid of transgression in their faith and duty in entertaining any other idea of moral doctrine but what may be derived from their religion, and who, therefore, might be opposed through their fears to the doctrine of morals springing or emanating from and promoted by moral discussion; and therefore to dispel any apprehension of their being at variance with religion. As to the morals or principles promoted, for these the fullest confidence is felt—even to an assurance of the most satisfactory nature, that nothing in them is promoted but what most strictly conforms to all ideas of virtue and good; and

not the smallest deviation from the most strict and highest duties of men will be found to be advocated.

On the subject of moral rights the ideas of men will be found generally to accord, because practice and experience will teach all what is generally necessary for them, and hence there will be a general knowledge and agreement among all mankind on this subject, or of moral good and evil. But there will be a lamentable difference in particulars and detail, when men come to inquire into the rules and modes of acting of different people, and some apparently that set at defiance the reconciling them with that general rule or principle of all in the benefit or happiness of man or good.

It is not the purpose here to inquire what are the various notions of men on this subject, or whence arising, though the inquiry might be curious, and interesting, and instructive. It is enough to know there is a general agreement, although varying in particulars. The purpose here proposed, is to consider and exemplify that general agreement, or rule, or law, in which they all concur. That there is a difference, it need only be called to mind the various religions, the superstitions, the various customs, usages and prejudices, and even laws of different nations and people, relative to what is considered right or wrong relatively in these respects, or good and evil, and by which men are approved or condemned, all of which affect moral rights. Many of which matters consisting of mere form or ceremony, have no moral advantage, and many of which are not

only inconvenient, but interfering with what is essentially good, and many are absolutely prejudicial and obnoxious.

How desirable and important it is, the rule, or law, or way of acting in human conduct, that shall accord with what is approved or estimated as good, shall be traced in its purity and simplicity where plain ; or where complex or difficult, the subject should be met and explained to instruct and guide men ; and so preserve the moral law from error or corruption, freed and unfettered from the crude notions, the prejudices and laws with which in many instances it is found clouded and encumbered, or under which it is hidden or overshadowed. The benefit of this will be acknowledged by every one not blinded by prejudice, or interested in keeping the mind in error and darkness.

The subject proposed to be considered of moral rights, is that of the rights of men, or the privilege, claim, or title, or what may be called the moral power or authority, as derived from men, and which all men have, or presume to have, of their lives, or which they conceive they have, to live, and promote, and obtain what is necessary for that, and that well, or what may be generally termed their good. This may be more particularly described as the right, power, claim, or privilege of men to live, and as including in their persons, their body, their mind, their health, their freedom of action or their liberty, and happiness, or generally what is variously called their good, or their welfare, or their benefit, and to

seek, maintain, and promote such things; the right to life, and to promote that life, and all objects of that life, every man claiming or assuming he has a right to, in common one with another. This claim, or right, extends to all that is requisite for this, as property, and the benefit or protection of government, and law, or justice, under or at the hands, or through the power or authority of government, or law, or of men. And as these things may depend, or be derived from, or affected, or effected, or influenced by men or human power, or generally by human means or agency, these rights, (generally termed the rights of man,) as arising from, or depending, or any way affected or brought to pass by human powers or agency, are what are termed the moral rights; and are the subject, then, that it is proposed to be inquired of, or considered as to their origin, or how men derive them, and what they more particularly concern; and those subjects which concern men in their rights, may be comprehended under Life, Property, and Government or Law, and under which heads they will be more particularly considered.

In proceeding to the consideration of the subject proposed, it will be proper to observe, that moral rights being derived from men, they have been so termed moral rights, as so derived through the nature of man, in his being a moral or intellectual creature; having reason to direct or govern him, and by which all that proceeds from him, or he does, in a moral or reasonable sense, is approved or deprecated. But the rights of men have been

supposed to be inherent, to exist in nature ; and without the aid or intervention of that nature in him, which characterizes or distinguishes him as a moral being or agent, being called into action ; whereas it is considered such rights are, and can only exist by the intervention of that nature. These rights have been termed natural rights, supposing them derived from or existing in nature, in his body or person ; that is, to belong to man, without any derivation or aid from the exercise of his own power, or authority, or his rational or moral powers in this respect. But what are considered natural rights, are really derived from human authority, or moral power, and are wrongly termed natural rights, and this will be apparent in the observations that will be made.

All human right, power, or authority resting with men, are moral rights. Natural rights, if rights can be so termed properly by a moral or reasonable being, are but the powers of nature, such as men may possess in their persons, their art or their ingenuity, and they may assume rights from hence ; but this power gives them no acknowledged or admitted right from others, their fellow-creatures. But what are rights, or so considered by men, are those derived from, or agreed to, or admitted, or acknowledged by men, and what being derived from, or depending on men, or what men claim as dependent on one another, must of necessity be admitted or acknowledged, conceded to, or agreed to, or it cannot be seen that rights can have existence. What is derived by men of one another in respect of their good, is

the idea meant of moral rights, but not that which men can take or assume through power or subtlety, without the consent, or sanction, or authority, or agreement of others.

But men have considered their rights as derived directly from nature, and resting or founding their right in respect of their lives, their persons, their property, and to protection and justice, as founded in nature; and by their natural rights, or what have been so supposed and termed in respect of these things, have moralists founded and laid claim to consideration in these respects. As derived from man, through the intervention of his power or agency, they are considered wrongly termed natural rights, and are therefore here termed moral rights. And this is a distinction of vital importance in morals, as it will be seen when it comes to be considered, the dependence of men for their good in morals, and the nature of the obligations and duties of men; and, when it is recollected that from moral rights every good is derived or sanctioned to man in human power, or through moral agency; while in natural rights, if such can be supposed, nothing is taken by moral and reasonable man.

Men, individually in themselves, can have no right, or title, or claim, but what is in their own power or assumption; but this can give them no right or claim in respect of others as against them, or for the respect of others towards them. But, on the other hand, others by their power or interference may prejudice or affect them, and destroy, defeat, and prevent their good and benefit. It is

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Men, individually in themselves, can have no right, or title, or claim, but what is in their own power or assumption; but this can give them no right or claim in respect of others as against them, or for the respect of others towards them. But, on the other hand, others by their power or interference may prejudice or affect them, and destroy, defeat, and prevent their good and benefit. It is

therefore considered, that all right of men to their good or benefit must be granted or conceded by men one to another, as well the necessary restriction, limit, controul, and regulation of the actions of men towards one another, in respect of the good of each other ; and also, as the promotion of the good of men may be dependent on men, that likewise which is requisite to be observed in respect of the promotion and maintenance of the good of one another, is also granted and conceded, and this is done in one and the same act or agreement ; and that this grant or concession is declared or implied necessarily in the consent of men, or in their estimation of what is right or proper, or good or evil, in respect of men, or as these are morally dependent on men, or affected or brought to pass by human means, or the agency of man.

The right of men to their good being granted, in this estimation of what is right or proper as to men, then it follows that what it consists in, and is necessary for that good, is granted also ; for if their good is granted, then is their right to their life, their health, their freedom of action or liberty, and generally their welfare, and property or right to things constituting it, granted, for in these do their good consist. It is meant morally, or as these rest or depend on men or their actions, or are affected, or influenced, or what concerns these are brought to pass through human means or agency : and therefore as much as life, health, liberty, and the welfare of men, and property, also the benefit and protection of men under government and law, are morally dependent or brought

to pass or affected by human means or agency, are the rights of men in these respects granted and conceded in the right of men to their good. And for the good so granted the moral obligations or duties of men arise, or the regard or consideration of men of one another as to their lives, their persons, and happiness, their property, and support and obedience of the government and law ; and these duties result necessarily as matter of claim or right on one another, as requisite for the good granted to each other, and as a return or compensation for the good of men, or benefit so granted.

Men, in respect of their benefit, or what is good morally considered, are dependent upon and derive it from one another, and are beholden to each other for all that is good, right, or proper, or beneficial, or advantageous to men ; that is, men by their power and interference, might oppose, prejudice, or prevent one another's good, and therefore unless they agree to consider one another, and regulate and control their actions so that the benefit or good of each shall be considered, they would not promote, but affect one another to their prejudice, or oppose or defeat each other's good.

That good is derived to men from their mutual concession or agreement ; let it be considered that the power and interference of men with one another, and in every thing concerning man, would destroy or prevent their good, by their opposing interests, wishes, and desires, and wants ; the one requiring or claiming what another had, or would be of service or benefit, or desired by them, and in the contest or strife, or through art or cunning,

that would arise to obtain it. Men therefore in seeking, or endeavouring to promote their good or benefit, find it requisite to respect or have consideration of one another, and mutually to grant, admit, or concede, to one another their good, and that each should be considered in this respect by the other, and in those things that will be requisite or necessary for their good. Men, then, in respect of their benefit or moral good, are dependent and beholden to each other for this respect or consideration, and the control and regulation of their actions, which is requisite for each other's good or benefit.

By the terms "grant" and "concede," it is not meant an act, or deed of form or charter, or visible in written character, but in the opinion, or judgement, or esteem, or consideration of men, and evidenced in words and actions, corresponding with these opinions and estimations, and acting agreeably with them, as far as may be in their power, or means, or through their agency. The terms "grant" and "concede" are made use of as a proper and definite mode to express this judgement and approval of men, in this respect, of what comes or is derived from men, founded on their opinions of what is right towards one another, or as respects men morally, or in what is existing or depending with themselves: and as this refers both to what is given or made over to one another of their good, and rights and claims for this, and also what is yielded or admitted, or given up as the restriction or limit of men's claims, and the actions of each towards the other to correspond

with that which is granted or given to one another, the terms *grant* and *concede* have been used as appropriate of both what men give or allow to others, and give up or consent to as to themselves, in such judgement and opinions of approval of what is right or proper relatively as to one another, and men and their actions ought to be circumscribed by, controlled, or regulated.

The extent or application of this rule, or grant and concession of good to men by one another is next to be seen. Men then judge of the right and wrong, in the regard or consideration of one another, as applying to or referring to all, as the good of all or each are or is to be considered; and there is no deviation or distinction in this, except for transgressions or offence to this rule, for if men do not have regard or consider the good of one another, they either forfeit their own claim as enemies, or suffer the punishment assigned by law, or feel the resentment of those who are offended; but independent of transgressions or offence, all alike are considered as entitled to their good, as is evidenced in the judgement of men considering the regard of the good of each and every one to be right or proper, and the contrary to be wrong. Now this includes all, both men and women, and children, and the aged, and the helpless. It is a rule, namely, the grant and concession of good, and the rights and obligations of men in respect to it, applicable to all; for all are judged by it, and accounted to act or do right or wrong as they regard or observe it or not,—all therefore are judged by it, and are included in

the rule or compact. It would be in vain to deny or refuse it, because they are all judged by the rule, even those denying or opposed to it, or offending against it, are judged well or ill by their observing it or not, and all are therefore concluded by the law or rule. If further observation is necessary to be made to shew this, let men consider they grant the good of all, in their judgement of right or wrong, in this respect, that is, of morals, (and not partially, for then there would be exception,) and that there may be no exception, because then any might be included in such, and excluded of their good and right in this respect; but there can be no exception in point of rule or law, for the good of men is a rule of all men, and is what all men found their judgement upon, as to what is morally right or wrong, as this good is regarded or not; and there is no exception in the rule or law, whatever there may be in use or application of it when men deviate, for if the rights of any are not regarded, it is wrong; and it is right or proper to regard them.

The grant of the rights of men in their judgement and esteem of what is morally good from its obviousness, its expedience, or necessity, grows up or arises among all men imperceptibly, in the meeting or intercourse of society, or in any community, and without any avowed acknowledgment or declaration, but by implication in the nature and course of human transactions.

To exhibit, or the better to exemplify that the moral rights of men are granted and conceded, it will be proper to examine how men derive that of

which they consist or refer to, namely, their good, or those things which are necessary or requisite for their benefit, from one another. To do this, let the inquiry be made, then, what is the right or title of man to any one thing—to the earth or its produce, either in soil, or any matter, or animals, or trees, or plants, or any thing on it, produced from it, or derived from it, or even to his own acts ; or to take or do any thing, or to make any appropriation ; or to acquire things, whether or not for his pleasure, or that his own necessities require it ; or what either is the right or title of a man to himself. Right or title refers to or implies something that is not self-derived, but admitted, granted, or conceded ; for if one man has a right or title to a thing, another has not, as land, or a house, or the animals or produce of the earth, or to his own labour or industry or the product, effects, or gain of this, it implies he has in this right, of whatever it may consist, a power, a privilege, a claim, a use or benefit in these things, which others have not, or are excluded from ; or whose power and interference is limited or restricted ; and it is an advantage, benefit, or privilege, as opposed to, or in preference in respect of those things, the rights to which is possessed by him, which others have not, and to which things the power and interference of others are restricted or limited as far as necessary for the respect or consideration of the right granted and conceded. Now, by what means a man derives this right, unless by the grant or admission of others, or their concession or acquiescence, cannot be seen,

for he cannot give a title to them, or derive the right from himself alone, or through his own authority. That it is granted, or conceded, or admitted, is evident, because, supposing a case where a man was not opposed by others interfering with these things, there would be no right or title to be disputed to the things which he might take and use all to himself; but right or title implies something as opposed to, or distinct from that which others have, or which might be disputed or questioned, and requires to be admitted, allowed of, or acknowledged; and if there were others with himself, there must be a grant, an admission, or concession, from one to the other, or between each other, to give a separate or distinct claim or interest, and a consequent consideration of one another in this respect. Men thus in granting to each other what they have, or a right in things, limit their own powers and interference with the other in such things to which right is conceded, or in what men grant each other rights in, they limit their own interference with, or power over; and if the right is not so raised, it cannot be seen what right one could possess over the things he claimed more than another, or to the exclusion of, or distinct from, another.

No one will pretend to claim this right to things to exist in himself, or of his own authority; or, if he does, will it be admitted by others? And it follows therefore, as a necessary consequence, that such must be granted, or conceded, or admitted by others. Were a man to claim such right to be pre-existing in himself, or derived from himself or

his own authority, without the aid or consent of others, where would such pretence end? And what would and might it extend to? And it could not be seen, but the right and authority must be the same in all, which would reduce the individual's right to a nullity, or at least one of community in the most complete sense, which would be the same thing in effect; and if any such right or title does exist to the earth men live on, its products, and their labour, or what is the same thing, the effect or products of their labour, or to themselves, it must be conceived to exist in common with and belong to all, and not to one more than another, for all are exposed to and the subject of, one another's power and interference, and there can be therefore no separate, distinct, or appropriated right but what is granted or conceded, and the powers and interference of men limited and restricted in this respect. The fact is evident, therefore, that there is no such thing as right or title pre-existing; but it is a thing raised, or created, or granted, in the opinions and judgment of men, and acted on accordingly.

It will be opposed to this doctrine or position, that if right is not existing in men, it cannot be granted. To this it is answered, men raise or create it. Men, finding their good, or benefit, or advantage in a right or title to a privilege or authority over things, and the necessity of this right for their good and benefit, they grant, or admit, or concede it to one another in respect of land, its produce, its animals, and in the labour of man, and its products, and even to man as to himself

over his person, his acts, his deeds, not interfering with others in certain ways to their prejudice.

This, it is considered, is the origin of right and title to things. And this right is so evidently good, and necessary for men, that it is found in practice, seen and acted upon in the common intercourse of men from necessity, or in society, and admitted and conceded by all men universally; and is raised or established therefore from necessity in practice, without their recognizing its origin, or whence derived, and the nature of which men themselves appear ignorant, till study or considering to what right is owing, the cause here stated is recognized; and which cause it is considered every one on reflection will be satisfied with and admit is made appear evident.

That the grant or concession of right is universally acted on and admitted by all men, it need only to be instanced, the usages, customs, laws, rules, or practices found among men of all kinds and denominations, and in every state, whether savage, or the most civilized, or in intermediate stages, except under usurped power or tyranny; and such is the evident necessity of it, and the ready practice or adoption, that it must arise spontaneously, or without thought or consideration, more than by practice, tacit assent, admission, or concession, of right itself. It is found existing amongst the rudest nations in the game they take, or kill, or in the roots or fruits or products of the earth they collect for subsistence, in their instruments of war or of the chase, the ornaments of their person, their huts, if they have

any, in the cattle and flocks of wandering tribes, and among settled people in land, and the cultivation of it, and in the various products of labour, art, and manufacture in more refined or improved states of men. None of which things, or the rights which exist with them, it is evident, could men enjoy or have without this admission or concession alluded to. The same thing, rule, or observation, applies to the person of man, under which may be included his mind, body, limbs, health, and action, as applies to right or title to land, things, or property in general. The power and interference of men with one another, will apply to and affect each other as to their persons, the same as to other things; and the power and privilege or having or possessing his person free or exclusive of the power and interference of others, or such power and interference restricted or limited, is as much the subject of, and dependent on, the admission, grant, or concession of men to one another, as the concession of land, the produce of it, and the result or product of labour; and the right or title of man therefore to his person is as much dependent on the grant or concession of men to one another, as right or title to land or things, or property extraneous or not his person. And therefore it is to be observed, that the right of man over himself, as to his life, his health, and safety, his body, his actions, and the respect of his person, his safety, and liberty of his person, and his actions, is derived from the moral esteem or consideration of men in the good or benefit of man; and is secured by the grant, admission, or

concession of men to each other of such right of each other's benefit, or what is good, governed by such respect of each other that is requisite for the rights of each other, in their person and liberty. And if this right or power or privilege of a man over himself, exclusive of others, their power, and interference with him, that is, as to his person, his acts, and his liberty, was not conceded, the power and interference of others over him, would defeat or destroy or prevent his having this benefit or good, by exposing him to the unlimited power of others.

But as questions may arise on the important matter of rights as to person, and the consequent obligations and duties resulting from such grant, a further consideration of the grant and concession of rights will be very proper as respects the personal rights of men, or that are granted or conceded to men in respect of themselves; for it might be questioned by some whether the right of men as to their person is granted or conceded, although they might allow that right in extraneous things, such as right in land, and right in the produce of it, or gleaned from it, by the work of men's hands or labour, or property in general were conceded, yet the right of a man in regard to his own person, his body, his mind, and his actions, or liberty, were not; but are what is termed inherent: but which, nevertheless, however apparently inherent, must on consideration be inferred, are granted and conceded, if the rights to land and property are granted and conceded; because if the one is inherent, there is no necessity to grant the other, as it must of necessity be implied

as belonging to that inherent, or the right inherent which can only be benefited or sustained by the other, could not be or exist without it. Person and property or right to things, are so dependent on each other, that the one could not be, or could not be of any consideration without the other, and so closely and intimately connected, their nature could not be separated in respect of right, and if the right to the one was inherent, the right to the other must be so likewise ; but right in other things is evidently granted, and so must right to person be likewise dependent on being granted. Right to things, let it be considered, consists but of the power or privilege of men over a thing, independent, or rather exclusive, of the power and interference of another, or whose power and interference is limited or regulated in respect of that thing, and the power and interference of another extends equally to a man's own person, as to any thing he terms his property, or has a right in ; and unless this power and interference of another is withdrawn or limited, and the right, that is, the power and privilege over it, given to a man, where is the right a man can claim ? Another may claim, attack, or molest him, and unless the right is conceded to his person, how can he claim or say that another has no right to assail him, or shall confine or restrict his power and interference ? This is done, and therefore the right of men to their person is granted and conceded, or conceived to be so, in the general grant and concession of rights men grant or tacitly agree each other shall have, in all states of community. But

it exists on other ground than the right of man to any thing ~~else~~ not personal, as land or any other thing of which property may consist.

Until considered, it may be deemed the merest casuistry to suppose, that a man, and what belonged to his person, or what it consisted of, and his powers, were not his own right. And if they are not, it might and would be asked, whose are they? It certainly is not intended to be denied, that a man's own person, and the powers and properties of his nature, are not his own right: and certainly they are as much his own right as they are that of any other person; but they are no one's right till right is raised, or is there such a thing as right, in a substantive sense of the word, till made or raised by men? It is not in this observation disputed what does or does not belong to a man, to constitute his being, or of what he consists in regard to his matter, form, substance, or powers, or what form a component part of him, but the point considered here is his right; the power, use, and enjoyment of these, and this exclusive of the power and interference of others, whose power and interference with him are restricted or limited in this respect. Right, in a substantive sense or use of the term, or title to things, and the exclusion of, or limiting the powers and interference of others, which right as before defined, consists in a privilege or power over a thing one man has that another has not, implies in its very nature a grant, admission, or concession from another; for how could one have a right that others did not admit or acknowledge?

And of what avail would any man's claiming a right be, if another, or those with whom he was involved, related, or connected, in society or community, did not admit or regard it, or was held as bound to regard it? Should a right, therefore, exist in a man, it of necessity must be conceded, even to his person, before he availed himself of it; or if he asserted it, and depended on maintaining it by force, it would prove others did not acknowledge it, but were constrained to submit by his power over them, or his intimidation of them; it would be what is termed the right of might, but it would not be considered his moral right as arising from the reasonableness of it, and therefore agreed to by men, or as the result of reasonable deduction, and acknowledged by man, and what men were bound to respect as their moral obligation or duty being granted or conceded in the good of men. Such right would be no more than the lion, the elephant, or the horse, could have or exert, and its effect would be as reasonable in its being applicable wherever its authority enabled it to act, that is, in whatever its power extended to must succumb to it. Such a right with reasonable and moralizing man could never be recognized. A right so asserted could exist only while it could maintain itself, and must succumb to any power superior to it, as another must submit to whom it was their superior. The grant and concession of right, it is considered, may apply as well to a man's own person, his body, his mind, his powers, or liberty to act, or in general terms to his personal good or benefit,

as to any thing else not personal, but the right to which is granted for his use and benefit; and which in fact, and in effect, is the same thing as granting the right to his person and his good and benefit, but through or by means of other things not personal. The inherent right of a man over or to himself, is a matter to be conceived no more recognizable, calmly considered, than the right a dog, a cat, or tree, or stone, have, with all of which a man acts as he pleases, though not just with that degree of respect as he gives or assumes to himself, or grants one to the other, which shews directly that full power is exercised over them, because they have no rights; and the same would it be with men without rights, as full power of men, where they possessed the means, might be exercised over others, had they no right,—that is for any moral obligation or duty to respect them. The right or authority of a man over himself morally is no more, and can vest nothing but his assuming it, and what this gives him. But this gives him no respect from others, or any grant or concession to him free of their power or interference, or the limiting such; and without that, what his own taking gives him will be of little avail or use, in fact nothing in point of moral consideration, or good, or benefit, at the hands of men. The general power and interference of men one with another as concerns or affects their person, is the same as with any thing not personal, which is or may be of use or service to man; and in a state of society or community men find it to their benefit or good to give or admit individuals, or one another, pri-

vilege or power in respect of their person, and to exclude, limit, or restrict others in such respect, and right therefore is granted in this respect, as it is over or to other things not personal, for their use or benefit ; and the right is as much created in the grant or concession of right generally to men of their good and benefit, as it is to those things not personal, but of use or benefit.

That this right of men is not inherent in men, which it must be conceived to be, if not granted, it is considered can be clearly shewn ; and which will also shew, if any thing were wanting, that rights in any respect are not inherent matters or things. Were such the case, they never could be lost or forgotten in the sense of man, however they might be denied to him or enforced away from him, neither could that which was acquired ever be inherent, or in other terms innate. Now it is apprehended, both one and the other, to be the case with men : men born in slavery or vassalage have not, it is considered, much idea of rights of person, even of body or mind, until the agreeable idea is put into their heads by those whose busy, intermeddling, or clandestine motives, have advanced the notion, with the tantalizing fruits of enjoyments kept back from them, or of which they are deprived by their oppressors ; or until reminded, through more refined or just motives of the charitable, the humane, or the philosopher, in the promotion of the good and benefit of mankind. Not to bring into discussion the invidious case of rights of individuals acquired legally, or supposed to be so, or at least main-

tained and even sanctioned by legislatures, and the laws under humane, Christian, and constitutional governments ; let it be asked, what are the notions of subjects living in slavery, or under despotic monarchs? Such may have an idea of right as between themselves, or as subjects in community, but none as against their masters, owners, or tyrants. The charitable and humane notions are entertained through the sympathies of the common nature of man ; and in the contemplations of men of a beneficent Creator are made the great boon and object of faith. But as to the rights of man, what idea has the subject who bends his head to the scimitar at the will of the tyrant, or knocks his head on the ground to suit the puerile customs of people of *primitive** simplicity and arbitrary government? Such men are considered, if history is to be believed, as having no ideas but of submission ; and that their lives, their actions, and rights (if they have the most limited idea of claim to any thing of the kind under their masters' will) being at the will and devotion of their monarch. If, therefore, rights were inherent in men, such subjects, we conceive, would not be without a knowledge of them, or some sense or other, whereas according to history they have none. They have undoubtedly a sense of pleasure and pain, and their only feelings and reasonings can only (to be so subjected in mind) be conceived

* The word primitive is here used in a sense, of men whose minds are not expanded by science or freedom of inquiry, but fettered by prejudices and maxims, or fixed rules, for inquiring, thinking, and judging.

to be directed by these. They of course love a master that may be kind and indulgent, and would wish to be relieved or protected from one that is severe and cruel. But the idea of a moral right in man that demands or claims a respect, as a duty and obligation from his master or monarch, never enters their head. Therefore is it maintained, if rights were inherent, although they might be withheld, or taken away from a slave or subject, yet the idea or knowledge of them would not be torn from them likewise; for if they were inherent, they would be apparent, and men would know them as well as they know they have their head, their body, and their limbs; but rights not being inherent, and having no instruction or enlightened morals given them, such persons as alluded to have never acquired any knowledge of them in respect of their superior. Where the idea of rights exist, they are derived from habit, custom, or refined or cultivated manners or society, or through inquiry and knowledge gained in consequence, and by instruction, therefore they cannot be innate or inherent, but acquired, and as a matter the subject of their power and interference must be granted or conceded by men, which is done by considering rights to be just and proper. But so important are rights, that every thing valued and good to man arises and exists and is secured but in them. So important are they for his esteem and consideration, and the explanation of them of consequence to him. Here let men not forget how much they are beholden to a Providence that has created man with his moral

powers and capacities to have rendered him a moral agent, and by this to raise his rights.

Should it be considered necessary to give further proof of rights being granted or conceded, and not inherent, it may be instanced in their being taken away where acknowledged, for in constitutional states, where rights are formally recognized, yet as laws are necessary for the safety and security of the subject, and restrictions, and punishments, and penalties, and forfeitures, are imposed on men, in all these states, the right of the subject, the freedom or liberty of his person and action, and even his life and property, are all amenable to laws, and in some cases the penalties of the law are extended to take away and extinguish all right whatever, which it may be supposed or imagined men are possessed of or entitled to ; and the fact is, that rights being a creation raised at the hands, or by the instrumentality of man, or by human agency, or the moral powers of man, is but a moral structure ; and as they are raised and exist but by the grant or concession of men, so if the ground or conditions upon which they are given, namely, in the respect or consideration of man, are abused, or not respected, so they may be forfeited, or taken away, or not admitted.

From these views and arguments it is conceived that it must be seen and acknowledged by all reflecting persons, that the rights of men, even as to themselves, is an admission or concession of one to another ; and that their rights in this respect, as well as all other rights, are granted and conceded ;

and it is by men granting and conceding their rights that they raise or create their moral obligations and duties, which important subject is next proposed to be considered.

The moral obligations or duties of men, implying that which men are bound or required to do as a matter or observance due and owing to others, and in which they stand pledged or bound to perform; and others to whom their regard or consideration is to be shewn hold them bound and responsible, or accountable so far for their actions; how does this obligation or duty arise? For certainly it does not appear at first sight or consideration that men can have any claim or right of one over the other, at least not without something done or given; and then it would imply there must be some knowledge or agreement between the parties; because, one man rendering another a kindness, or service, (except from gratefulness or generous feeling, but which does not imply the force of an obligation or duty to be enforced or required as matter of right or claim) unless such kindness and service rendered, was with the knowledge and consent of such other, such other would be loth to admit, because that one had chosen to do that which he considered for the other's good, that he, the other, therefore should be bound to render that one other service, matter not how great the inconvenience or indisposition. In ordinary concerns or transactions between men, men do not therefore, it may be asserted, hold themselves bound to each other for acts of service rendered without knowledge or consent and previous agree-

ment ; and which, if they were to do, it might extend to the greatest intrusion and inconvenience, not to say mischief, in ordinary life, or the transactions of men. But in morals all mankind do hold one another bound to do good, and they judge of each other accordingly, and approve and condemn one another as they shall have regarded their duties, or what is so conceived to be their duties ; and this rule extends throughout all mankind, variously as to degree of being refined or correct, but all agreeing in their being bound or obligated to observe their duties ; all mankind holding one another bound by what they consider their duties to one another, and generally all are agreed in the main or leading points or character of this duty, as they necessarily must, as to what they consider right or wrong, or good or evil, being the benefit or injury of man.

Now at first, as has been observed, it does not appear men can have any claim on one another to require the conduct or observations requisite in what is considered their duties. Apparently there is no contract or agreement, none certainly to which all mankind, however and wherever situate, matter not how distant, can be considered as having previously entered into, known, or consented to, at least as an avowed or declared contract or agreement ; indeed that would be an utter impossibility. Yet all men do act and know something of such duties ; and without some previous knowledge, agreement, and consent of the parties in all ordinary occasions of life, men do not hold themselves bound to the performance of

any supposed contract or agreement ; and it therefore, as has been observed, does not appear what right or claim men can have on one another for their moral duties or obligations, or to regard or consider one another in what is necessary in this respect, or what is commonly termed the duties of life. One man meets another and knows that such or such things, land, or a house, or other things, belong to and are the property of such other ; and knows that he should not hurt or offend such other in person, or hurt or take his property. He has learnt this in the practice or experience he has had in life ; but if he doubts this, or denies it, or will not admit the rule of practice, the other may say indeed “ I will make him regard it, for I will defend my life and person, and my property, or make him suffer the consequences.” And he either does respect the other from rule or practice learnt, or through fear of the consequences if he does not. But it is not seen how this raises an obligation or duty through any right or claim in the other to respect or consideration, that is acknowledged or agreed to, or consented to by the former : nor is the circumstance of force or coercion or rule of acquiescence derived as it can be seen, under any agreement or understanding that there should be that respect or consideration, and therefore that it is required by the one, and obeyed by another, as a duty or obligation in which they are beholden to each other, and that by agreement admitted and acknowledged to be such, and universally so by all men as it is. To do otherwise is contrary

to the good of man, and contrary to religion, or it may be contrary to law; but how it is contrary to the claim or right one man has on another, it is not seen upon the bare inquiry, why should one man out of any right or claim another has on him, regard the other or his property, and as a duty or matter due from one man to another, existing or arising from themselves, and admitted or consented to : but this, it is considered, is explained by the grant and concession of rights.

It is on the grant of the moral rights as these are dependent on men that the moral obligations and duties of men arise. These rights as dependent on men, in the grant and concession of these, men limit, control, and regulate their actions, in what is necessary to respect and consider one another for their rights granted and conceded, namely, by respect for their lives, their persons, their property, and in their obedience and duty to government and law ; and of which limit, control, and regulation, the moral obligations and duties of men consist. In the rights granted, men hold one another accountable and responsible to each other for the respect and consideration necessary for each other's rights, and the limit, control, and regulation of their actions requisite in this respect ; and which observations by men of their duties, may be viewed as a debt or obligation raised and due by men from one to the other, in the good they receive in the grant and concession by each other of their rights.

In the grant and concession of their rights, each man has a claim on the other for the respect and

consideration of their rights which are granted or conceded to them ; and the moral obligations and duties are due from all to each other, for what is thus granted and conceded ; and it would be nugatory or inconsistent with the grant and concession of rights, if men were not at the same time held subjects to the moral obligations and duties, or those limits, restrictions, and regulations of their actions, necessary to respect and consider what was granted. Thus, therefore, are the moral obligations and duties of men raised or derived from the rights granted and conceded to men by one another ; and the moral obligations and duties of men are dependent upon and co-existent only with the rights of men. For men, by morally granting and conceding their rights to one another, in doing this they raise or create the moral obligations on one another to respect those rights, or are required to have that regard or consideration for one another which is necessary for the good or benefit of men in the rights granted. But without such rights are granted and conceded, it does not appear how men can be considered to be under any moral obligation or duty to one another, or how men can be made or considered morally responsible to one another to have respect or consideration of each other, in regard to their good or benefit, for any moral right or claim they may have or possess where none is granted, and none, consequently, can exist. In these obligations and duties of men, are the respect or consideration of men in their observance of the moral

and virtuous precepts useful and necessary to be observed for the regard of their rights in their good granted by such rights. These precepts are truth, honesty, charity, justice, mercy, and every kind and genial rule beneficial or serviceable to man and generally of humanity ; even to respect and decency to the deceased as a measure of humane and kindly feelings to the relations and friends of such, as well as an example of respect to the person of man to the latest occasion that it is within human power to have such, to cultivate and promote the good of men conceded to one another as their rights.

The motives or inducements, independent of the moral obligations and duties, operating with men to make them observe what is moral or good, and follow and observe the precepts or rules in this respect ; and which they may learn or acquire in their youth, their education, or in their essay into life from childhood to men, are those of kind and good feeling and sympathy, for doing what is serviceable, beneficial, and friendly, and a consequent dislike and abhorrence of the contrary, or bad, wicked, or destructive acts. There are likewise the motives that arise from reflection or consideration of the moral right and wrong, or good and evil, as being what is proper, serviceable, or beneficial for man, and the contrary ; and what therefore men will be directed to do from their sense or reason, pointing out that what is right or good for men, they should do ; and the contrary ; or what is bad or wrong for men, or evil, they

should not do ; and men thus acting, their conduct would proceed from a sense or principle or moral rectitude : and however such conduct, or what is good or the benefit of man, being what men should do, may be considered, and in reality is, a moral obligation or duty for man to observe ; yet they would, on their own free will, independent of all consideration of obligation or duty claimed by others, do from their sense or reason pointing out, or shewing what is the good or benefit of men is the right rule for human conduct. Another is that of their own interest, where what is good is beneficial for men as individuals acting themselves ; as, generally speaking, weighing all circumstances, it will be : but such motive being grounded merely on interest, may be liable to fail where the chances of detection are remote, should they deviate from moral rectitude, the present temptation to deviate be strong, or power tempts them to defy detection, or to spurn the consequences if discovered. Habits, manners, customs, and education, (these being founded on what is good or may be traced to such foundation, however erroneous or opposite as sometimes these matters may be found,) generally are another cause of men being moral or good, or observing what is so esteemed. Another motive is, that already adverted to of religion, that prescribing, or pure religion prescribing, as the ordinance or will of God, that men are to do good and not evil. And there is another motive, that by which they are constrained or compelled to be moral, in cases where the interpo-

sition of law is necessary, or is supposed to be so ; and therefore, edicts are made to enforce certain observances or rules of conduct, and certain penalties or punishments are inflicted or assigned by law for disobedience, when appealed to, or coming under its summary notice and penalties.

Now what men will do of their free will from a high sense of moral feeling, or reasoning or moral rectitude ; or what they would do from their interest, or what they would do from the high authority of religion, or from the compulsion of the law, have all of them the grounds plain and palpable enough, that is, that the authority is evident enough in all such grounds or causes for men to see them ; but not quite so evident, (although felt and admitted of necessity,) until considered, and explained, is the ground of moral obligation or duty. It is therefore to this cause or motive for men observing or doing good, and not doing evil, that it is particularly desirable to draw the attention of men.

The obligation or duty there is to be moral has frequently been considered under the head of religion, as what is prescribed by it, and hence a duty to the will and decrees of God enjoined through religion. This source of men's duty has been generally considered as singly resulting from religion. But it is considered that this moral obligation or duty of men, as well as being the duty of men in obedience to religion, really and truly is derived from moral grounds or considerations, or is derived from men themselves, and is

clearly deducible on such grounds, as has been shewn, and as such is especially a subject of the consideration here.

But to return to the various inducements or motives there may be for men being moral or good. It is certain that, from ignorance, from habits, customs, or prejudices, and bad education, or from wrong interpretations of religion, and of laws, or laws mistakenly or badly framed, through want of judgement, through interest, or craftiness, and from wrong judgement of individuals alone, and weak and dull powers of discernment and comprehension, errors and mistakes, in many points and cases of moral subjects, there is much that may tend to prejudice, pervert, and even defeat the purpose or object of morals, and this may occur at all times with men : and moral considerations, moral instruction, and moral essays, probably will always be necessary to disabuse morals from the errors and mistakes of men, that will ever be liable to grow up and intrude themselves at different times ; and to correct and set right such abuses as may exist ; and also to prevent, and correct, when occurring, the perversion and misapplication of the most just and correct general principles and rules, that may be established past any question or doubt with men, but which in their use or application may be mistaken, or misapplied, through errors or abuse ; and whatever may be expounded for the better and more correct instruction of men in morals, monitory advice, instruction, and explanations, will at all

times and in all ages be found useful and requisite for human direction in this respect.

Under the consideration of morals, the moral obligation or duty of men as the motive or ground for the conduct of men, or of men doing good, and not evil, appears the most important of all motives or inducements with men to be moral, as results from man, as the strongest or most forcible claim of men on each other for that which they are indebted to each other in the moral rights granted and conceded by them. It appears of the first importance to consider the moral obligation or duty of men as arising with or derived from men as the means of making men more moral in the proper sense of this term, as referring to what is right or good, and the more so in the present day, because it is a subject, the true ground or reason for which has been passed over in works on morals as arising from a moral source, or with men themselves: or where morals are assumed as a duty of man, no very satisfactory solution has been given. Explanations of this duty are matters that have been considered and adverted to, but certainly the authority of morals as a duty has been more assumed than realized by any reason or sound adduction. The necessity of morals, and the practical good resulting, and the reasonableness for human good, and the good feeling and disposition of men towards morals, have all contributed to their support however occasionally deviated in; and have made men designate morals or virtue as a duty from the real utility, but

the adduction of this as a duty is very deficient ; and how frequently is it that badly disposed men, and men tempted by circumstances to pursue an opposite conduct, challenge the subject of duty, and deny any such obligation can be shewn, and console themselves in their own misdoings, by ascribing the duties observed by others as flowing from self-interested motives, weakness in its adherents, and deceptions imposed on men through craft in those who would impose or enforce the rules of virtue on others. Such evasion by people from their moral duties would at least be defeated, were morals clearly, and on undeniable grounds, shewn to be an obligation on men ; while, on the other hand, men would have less compunction in opposing those who do deviate, with the effects of their just opinion and the penalties of the laws, where their negligences and misdeeds amounted to criminality, or came within the pale of those actions considered fit to be the subjects of its penalties.

What advantage might ultimately result, is not professed to be seen, nor cannot be foreseen, for, by a just and sound knowledge of any subject, or improvement of science, (for as such, it is conceived, the explaining of moral rights and moral obligations, consequent of those rights, to be in morals,) it is impossible to say what effects it may have ; but it may generally be hoped the better or more perfect effecting the benefit or welfare and happiness of man. And it is conceived, that it may be ventured to be stated thus far, that with those who might apprehend too rigid and severe

discipline would be exacted of men from the compulsory nature of an obligation or duty shewn, such may be relieved in this consideration, that as the true ground or nature of morals were shewn, and a rational authority explained for their observance, so would errors be cleared up or chased away, or dispelled, in a more enlightened or expanded consideration of the subject. And in the strength of the ground for the observation of what was really right and good, dogmas and arbitrary notions, and rules, would vanish, as more correct ideas were attained ; and such arbitrary rules as were imposed, for want of better authority to regulate human actions, and whose support is the defect of authority without them for controlling of men, would, having such true authority as alluded to clearly established, cease to be the bounden rules for men ; and thus, it is conceived, a more liberal and enlarged scale of action may arise in all conduct that can tend to the benefit of men, or what is good, or that beneficial effects can recommend. If it is viewed in one light alone, it can easily be supposed the effect may be extended to a far greater degree than we can at present foresee, in that of encouraging the kind and good feeling and disposition of men, and repressing the *Conceits* and *Passions*, and have general good effect in the civilization of men ; and opens a subject, in which may be viewed the most extended and greatest benefit as ensuing from it, but to what extent cannot be judged.

Morals, like all other subjects, must be left open to a liberal and free consideration, and are not to

be tied down by arbitrary rules or laws, or fixed maxims or dogmas ; and when the ground of their observance is fully developed and established, and the principles, rules, and laws on which they proceed are ascertained, the most extensive and never-ending improvement may be going forward in them as in other things. Wholly to correct evil in man may be impossible, while his nature is fallible, and from ignorance, errors, passions, and unconquerable perversity, it will always arise ; but these may be lessened, or palliated, or increased or aggravated ; and as far as men may be benefited by the one, and relieved in the other, men may always be receiving improvement. In morals, as in all other science, the explaining the true nature or grounds of any subject in it is desirable, as enabling men to form more correct and right judgement in the subject in such respects, and as a matter of science alone shewing the true nature of the moral rights and moral obligation or duties of men, and whence they arise, it is considered by all analogy and experience to be doing a service to science and the world. It will be right to observe, that without such obligation or duty of men, it does not clearly appear in a moral point of view, that men are any way bound to do good, or to the consideration or respect of one another morally, out of any right or claim others have on them, or any further than in their own free will or option, the duty of religion, and the compulsion of law, or fear of others, or their own self interests exclusively considered ; so that if they chose, where they had the power, barring

such other motives or influences, they might act as they liked, whether to the good or consideration of others or to their detriment, for any moral control of right or claim others had over them, in moral consideration, that is, barring the compunctions of such influence as have been alluded to.

The importance and necessity of considering moral duties with highest veneration and respect, and they being the injunction of religion, has probably made men trust mostly, or entirely, to implicit obedience of men to them on this account; and may have been the occasion of it being considered useless or unnecessary, or derogating to religion, to search into the moral grounds of this obligation; or happy to relieve themselves of the labour of the inquiry, men have rested content with such high authority, so that the explanation whence the obligation or duty of men to be moral, on moral accounts, arises or is founded, has been very much neglected;—for requiring men to be good, or observe moral duties as enforced by the Creator, what ground can be stronger, or so available with men, when duly considered? The possibility of explaining morals in respect of the rights and duties of men, however, is considered practicable, and therefore it has been attempted here, with what success the understanding and judgement of the reader will declare; but it is confidently felt, that by rational explanation depends the more forcible impression that is to be made on men of the moral duties in all discussions and lectures on morality. Men are to

reflect, however, first in importance as a religious duty morals are, the sense and duty of men in religion are to be taught and raised, and men made to agree upon the subject; and how many there are with whom this cannot be effected: and how useful and very important it would be to instruct, and make men see morally, or through the force of reason, their duty or obligation of thus doing good, and not doing evil, by the explaining to men, through human means, or the powers or capacities of men, by the force of reason and human judgement, why men are to be moral, and whence arise in men their obligations and duties to observe morals, or do good. Religion itself cannot but be benefited in this; for if it is practicable to inculcate and convey to men the true esteem of moral good, religion, as its highest authority, for ordaining it, and supporting it, must be brought into greater veneration by men, as a confirmation of the practice men are satisfied through their own inquiries is right. If men respect the highest and best doctrines of life, that of human benefit, or what is good, it follows they must respect the Author of the universe for the human capacities which it hath pleased God to endow His creature man with, as far as it is in human power to discover.

It is not meant to be said, that moral grounds for man's obedience and duty to morals have not been considered; for the duty or obligation to morals has been asserted and been explained in the benefit and utility and generally for the good resulting to men as of necessity it must be, by

every moralist ; but the mode or manner in which the obligation or duty is derived through men, for this good or benefit, it is believed is not explained, or if it is, it is unknown to the writer ; and it is therefore doubted, whether the obligation and duty of men in morals have been so clearly explained and deduced as they might, so as to shew they are the result of moral authority ; and as well as a religious duty, that they rest firmly on human reasoning and authority, or esteem, and which, as they do admit of moral explanation, it has been the endeavour here to shew.

It is also true, men see or consider their duty to be moral or good on religious grounds, or as the rule or ordinance of religion ; but they do not always see the obligation independent of that authority ; and considering their conduct or actions to be at their own control or direction, or that they alone are masters of their actions, imagine they may do as they like but for the laws of man, or the duties of religion : and consequently, where disposed to do wrong, if they can evade the one, and overcome the scruples they may have with respect to the other, there is no other ground of control, or any other reason for their not doing as they like where in their power. And considering that it is optional with them, or that it rests on their own free will and good disposition to do what is moral or right, and refrain from what is bad or evil, for that they are bound to no human authority, and not therefore bound through obligation to man, they are not amenable to man, the consequence is, want of respect, or

consideration of the good of others, where desire, temptation, or their own purposes, lead them to consult their own views, to the sacrifice or disregard of others.

It is therefore considered, that the ground upon which the human esteem of morals as a duty has not been sufficiently explained ; and although the practical knowledge is acquired in a very high degree, it is considered that the mode or manner in which the moral obligations or duties of men result, or are derived or deduced from their source in the moral good or benefit of man, arising in his rights, is a matter very much overlooked in all moral works, and instruction. And it is conceived, that the true explanation of morals as a duty are equal to, if not of more importance than, the teaching of the more practical part in the moral precepts or rules themselves. It is certainly of first importance, whatever utility there may be in explaining and teaching the moral precepts and practice, for it is on the duty of men that the precepts and practice principally rest, or are practised. The establishing, therefore, the moral obligations or duties of men in a plain and undisguised manner, free of errors and prejudices, is thus held to be of first importance in morals. It is not either assumed that any thing new has been said upon the subject ; but if the subject can be placed in a clearer light or view by the mode or way in which it may be explained, so that it will be better seen and understood in this respect, it may perhaps be permitted to be said, to be placed or shewed in a new light ; and better seen, as it is

hoped it is, a higher and more true regard and estimation of duties may be raised, which will better serve or tend to their own ends or objects in the benefit of man, or what is good.

In the consideration of the moral duties of men, the actions or conduct of men are viewed only, or referred to, as that which is due or claimed of one another, for what they receive or are indebted to each other, by the necessary concessions or admissions in community or in society, and the good thence resulting generally to men. But in this is not included the conduct of men arising from the good and kindred feelings, and sympathies of his nature, and which are the voluntary offices of men without the reflection of the claims on them, as duties claimed of right, but yet may be sustained and practised, on moral considerations or reflections, that they are good for men, and therefore right to be done in a moral point of view, or consideration. Neither is included, under duties and obligations, that conduct alike moral and good, which proceeds from his duty in pure religion, or the welfare and happiness of man, as far as he is capable, by the discernment and the powers he is endued with of effecting the same. But the conduct of men is mentioned that is good and virtuous, and therefore moral, arising from these sources, as well as from moral duties, as a measure of precaution, that they may not be lost sight of or forgotten in the contemplations of men on morals, as to the duties that are exacted of men as a claim or right of men on one another, which is considered here, and the subject to

which the attention is chiefly drawn, in the present considerations of the ground, or reason of men for doing what is good.

The doctrine here advanced, may be combated by the school that considers moral rights to be the result of natural or inherent rights of man. The doctrine, however, advanced, does not in effect differ much from such principles, or not very materially so, as far as they are pursued with a rational and virtuous intent ; because the practice of what is necessary for the good of men, must correspond where that good is the object, and sincerely is adopted. But it is considered that a more clear and perfect solution is arrived at, whence the rights of men arise, and the important matter connected with them, of the obligations and duties of men, arise by the mode here adopted in considering morals, and which is not so easily arrived at, in the idea of the inherent or natural rights of men. And for this plain reason—in the inherent rights of men, it is not seen how any thing can be required of men without infringing on such supposed right, or otherwise such right must be admitted, or considered their right, subject to exceptions of restrictions and limits ; and this is a difficult matter, and no very clear or satisfactory explanation or result is or can be attained in this way of a natural right. By the inherent rights in men alluded to, a supposed or assumed right of man as to himself, his body, or his person, and whatever was included under such, his mind, his thoughts, and to live and support life ; and hence are derived his rights to

take and use the animals and fruits of the earth, to cultivate the soil, and appropriate his labour and its products to himself, or his own use. But supposing this inherent right to exist, it cannot be seen how they can gain a right in contradistinction to that of another, as whatever one claimed as his right, would exclude another, whereas such other would not agree that his right was not as good as that which was claimed by the former. Now, if inherent rights are supposed to exist, it ought to be shewn that inherent rights exist, to respect inherent rights ; or in other words, that inherent obligations and duties exist in others to respect those who have or claim inherent rights. This, it is considered, is difficult, or rather impossible ; and without this respect, of what moment would inherent rights be ? It is apprehended no satisfactory definition of what a man's right extended to, would be made under such circumstances. Inherent rights, if they exist, exist in all—in all in community,—which amounts, in all possible human conception to a contradiction, and is an absurdity in terms. But supposing men's rights are inherent in themselves, and no way dependent upon any one besides, and moral duties and obligations are deduced from such, what is needful or good for men, must, for aught of casuistry, be granted or conceded by men, or of what benefit would be the right ? And the same conclusion is come to as set out with in this work, that of the grant, concession, or admission of that which is needful for men, and from which are at once derived moral obligations or duties. Now,

that which is proposed here is, that men have certain powers of agency, and in exercise of these they find or see what is beneficial for them, and they set up or raise, and grant, or admit, or concede what they so see, or consider is beneficial. And it is perfectly intelligible, that for benefits thus received at each other's hands, duties or obligations arise in return; and if rights are granted or conceded to men, their obligations and duties can with justice and reason be claimed or demanded of right. The one doctrine is considered to be intelligible, and the other is not.

No apprehension is to be entertained by those who adhere to the notion of the rights of men being inherent as the foundation of their liberties, and justice, and of all good that is desirable to be secured to men; and imagine, that unless their rights are admitted to be inherent, there is no foundation for liberty, founded on the notion or right of opposing tyrannical or oppressive despots or governments. It must be confessed that much cannot be seen in the abstract position of the rights of man. And any thing else may as well be laid down to found or deduce the good of man, and virtue, and justice, as the rights of man as an abstract position; but which, when qualified, comes to much the same thing in effect, as has been before observed of the concession of rights, and the obligations and duties of men consequent of this concession; but which latter is arrived at by a more simple and plain method. It is apprehended, as before observed, that nothing offensive to the doctrine of the rights of man for the good

of men, is here promulgated. Because, if men will consider but one moment, they will find every thing liberal, free, and humane, arising in, and supported by, the doctrine of concession, and that of obligation in return, to the full as much as by the principle of the supposed natural rights of man, but in fact by plainer and easier, and more intelligent means. And they will find in the precept of justice, it is conceived, a stronger and plainer rule for the equal rights of man, than in any abstract position or metaphysics, and a more intelligent ground for men asserting or claiming their rights, as every one will understand justice both in terms and application ; and necessarily must, as it is concerned, or is called forth in almost every day's transaction, or question, as between men. And in that they will understand a precept that grants a fair and equal consideration of men, as far as practicable with the general good ; and equality of rights is thus granted and conceded to man, in an intelligent manner, qualified by what will be for the general good, in the respect or consideration of one another, and the limit, control, or regulations of the actions of one another for this respect or consideration.

But what a man will understand by the rights of man in the abstract, without the aid of his logician, or his book in his hands, it is feared will be but of little note or service, but in name and high sounding pretensions ; at least so the position appears under such ordinary considerations the writer is capable of giving the subject : but this is spoken with deference to the opinions, and judgment, and dis-

cernment of others. It is conceived, and it is regretted, that the term Justice is lost sight of in the more modern term of Rights of Man, as supposed to be inherent and independent. That the term of justice is better understood, more to be revered, and will effect greater good, cannot be doubted ; for no one ever denied the virtue of it, or pretended to misunderstand it, however abused or perverted. Not the greatest tyrant or despot that ever existed, ever dared disavow it, but, on the contrary, made it the claim and pretext of his power and authority for the respect due to him, and the support of his power and state, however he abused it ; while, on the other hand, the rights of man, meaning natural rights, are a fearful sound, as opposed to every existing system of society, and principle of morals and government ; and in the abstract sense, or meaning without being qualified, seems directed against all property, every person, and every state. And as to practice, it is to be feared too true it is, that in the libertine cry of the rights of man, justice has been, in the two-fold sense of principle and practice, consigned, if not to oblivion, yet to that obscurity that makes it secondary to the security of men's rights, when in fact it is the first, in point of precept, to give men their fair and equal rights of consideration in the rule, or law, or grant, or concession of rights, and the obligations and duties resulting from such concession ; but not by this meaning equal rights in things conceded in point of equality of share in them, as this would be a thing impracticable, and, in reality, not conducing to the good or benefit of mankind gene-

rally, were it practicable, however plausible it might appear; neither could it be continued from one day to another.

Natural rights, or what men mean by such, it is considered are no more or less than natural power; and the distinction to be made between such and moral rights would appear, that the former applies to or extends to whatever is in the power or compass of nature, and of course, as applied to man, whatever he can compass, and by any means, governed by no limit but the want of means or efficiency*; the latter, that which applies or extends to the good or benefit of men, as it

* It is rather a curious circumstance, that philosophers, in establishing the rights of man for the object of his security, his liberty, and benefit generally, as opposed to despotic power, and the too general consequence, tyranny and oppression, endeavour to draw, or found, or adduce the rights of men from nature; when in nature a tyrant is justified in all his acts, or doing whatever his power, his means, or ingenuity, enable him to do. The error has been, mistaking the freedom of nature for right, instead of deriving right from the moral source of men, raising and giving it to each other in respect of their good, compatible with the consideration of one another in this respect, on which it is wholly dependent. The freedom of nature appears delightful, considered uncontrolled or unlimited; but the very unlimited power and authority are its bane, exercised to enthrall others. And what authority is there to restrict this in nature? For when men consider and see its baneful effects unlimited, as nature is, and they would restrict or throw a rule or law of restraint, (seeing nature in herself unlimited, is impracticable and injurious,) and qualify the right supposed to exist in nature, by what they term the laws of nature, in order to restrict or control it to what is compatible with one another's good, this is not nature but moral, the exercise of the moral power or agency of man. Men, in searching for authority to rest or found what is desirable to man, have overlooked morals, and to seek for it in himself, as arising in man.

can be regarded or considered in relation to each other, and therefore limited or restricted by that which will be the good or benefit of one another, and their actions limited or restricted by what is requisite for this and will be practicable. The one the wild and ruthless power of nature; the other, in effect, the human powers limited and controlled by what will be wholesome and beneficial for men. The one inconsistent and incompatible with man as a moral or rational being, and all moral and rational institutions for his benefit; the other characteristic of the moral and rational powers, or nature, which distinguish man, is agreeable and consistent with that, and productive of his good in what is dependent upon men, or can be accomplished by his agency; and governed and directed by reason, is what alone men can mean and approve as rights, as reflecting moral, or reasonable beings. In these observations it is hoped that men, in allusion to rights, will see they must mean moral rights, or that which is considerate of the good of one another, and which mean or allude to a limited and controlled mode of action, that is requisite for the consideration of the good of one another; and that the idea of natural rights is a mere illusion, as such can refer only to the powers of nature, a state of license and misrule, and perfectly inconsistent with morals.

After what has been said, should any one be disposed to advocate the inherent rights of men, it were to be wished they would shew what they would propose to gain by this. If men had inherent rights, or rights belonged to them, it were

to be wished that the advocate would define them. Could they be defined to be practicable, any thing more or less than a power, a privilege, in the use, management to a certain degree, and enjoyment of certain things, the rights advocated or supposed, applied to, and to the exclusion or restriction of others, to or over those things. But what proof could be adduced of that right in one, to the restriction or exclusion of another? It is boldly affirmed this cannot be shewn, that such rights could be by inherency; and could it, it cannot be conceived how the right inherent in one man could restrain or exclude another from that the right was pretended to exist in, not even to his own person. But supposing rights to be inherent, all moral duties and obligations would be at once destroyed, for then would no man receive the benefit of right as granted by another; he would take nothing at their hands, and owe nothing in return. And instead of duties, men's conduct would be at their option, or will, to do as they chose, or to regard others or not, instead of it being a matter incumbent on them, and which they could not omit, or neglect, or refuse, without a manifest breach of contract, as between man and man as to the whole race. It is only by the grant of good, or the benefit of men and their right, in this respect, that the duty or obligation of men results; and it must cease, or rather not exist, if men take nothing from each other, but their right is prescriptive in themselves alone. But what good or what advantage this would be to men, shall be left with the advocate, if such there

be, after what has been said, to shew, and take the benefit of, when he has discovered it. By the admission, grant, or concession of rights in the good of men, the duties of men owed to each other are gained : without it they are lost, or do not exist ; and nothing but empty and vague presumption of rights, and a system of ethics perfectly unintelligible for common use, a complete jargon to expound and explain duties which, of necessity, men nevertheless cannot exist without in practice, but which they have then no reasonable authority by which to explain them.

In this short and plain statement, it is hoped it is made to appear evident how moral good is derived to men, as well as whence his obligations and duties arise ; and it may not be improper again to observe, that the moral rights of men, and their duty and obligation consequent on such, are a matter of such spontaneous and necessary result to man, and of such universal assent or agreement, that its beginning or origin is never noticed, occurring necessarily with the acts of intercourse between men in society or in community, from the first of their congregating. And though the necessity and obligation is felt by men in practice, the cause or ground for it in morals seems to have been overlooked ; and hence the seeking for the authority for the duties of men in plain and reasonable grounds, such as all men can see, and will admit, it is considered has necessarily been obscured and clouded by metaphysics or abstract principles laid down, difficult and abstruse, and never satisfactory, and which principles often fail

to support the practice necessary, or the deductions to be drawn in the course of their various application.

Religion, on the other hand, has been made an instrument in the hands of many men for moral rules or duties ; but the failing here has been, that pure religion has been perverted, or turned into an instrument to effect the schemes, and promote the ambition of men ; and thus has been perverted, through the artifices and craft of men and ignorance, into absurdities, and the most dreadful enormities and visitations upon men ; and which abuse of religion has also served to keep men in ignorance of moral science, but which must ever be upheld as being in the most strict conformity with pure religion, as being in harmony with the rules and laws implanted by the Creator in human nature.

It may be now proper to notice, that objections may be raised to the doctrine of the moral rights, and the obligations and duties consequent of them ; and though they may be the same that may be alleged against all systems of order, and therefore no more affecting these doctrines than any other, yet it is considered proper to meet them ; and it is therefore right to observe, that it may very possibly and even probably happen, that an observation may be made, that moral laws and rules are good for promoting the interests of those who prosper in their observance, but not for those who are in adversity, or the poor and distressed in their worldly circumstances, who, were it not for the laws and moral precepts that subject them, they might by evading, or dispensing with the moral

duties and obligations, render their own condition better: and as such a common source and topic of observation as this may ever be; in a work on morals, and in a work professing the establishment of moral rights and the moral obligations or duties of men, it demands explanation. Let men advert to the fact of how much men are indebted to society, and the moral institutions the result of society, and in the grant, admission, or concession of good to men, and of right and title in this respect to the various things men possess, and to the obligations and duties arising to regard and protect these rights, the very humblest, poorest, weakest, and most imbecile and abject of the state is indebted, for his life, liberty, his daily bread, the price and earnings of his labour, and every thing he possesses. And without the concession of the right and title of men to these things, and the moral obligations and duties to respect and secure them, no man has a claim to these things, or can be secure in them from the power and interference, claim, or usurpation, or oppression of others, who might choose to exercise dominion over him, or who had power or wit to execute his will or designs against him. The poor man's daily labour, morsel, and hut, are secured to him but by means of such concession, and the same as the possessions of the rich are secured to them; and without such means, the poor man is no safer in the possession of his frugal and spare lot, than the rich is in his abundance. And would the poor man spurn the moral laws or rules, and break them down, and freeing himself of their restraint,

take the law and rule of action into his own hands, from that moment he is open to the same unrestrained conduct of others; his claim of right and title conceded to him is gone to any and every thing, and the bond of moral obligation and duty to him is annulled, and he is the subject of the power and interference of all men. And any who choose to usurp or exercise right and title over him, or whose convenience, or desire, or caprice it might suit, might assail, attack, and molest him for any duty that was owing, or right he had, for such would not exist. The right and title conceded by men of their good, and the obligations and duties arising from thence, are quite as essential for the poor man's life, daily labour, morsel, peace, safety, and happiness, as to the rich, and not one degree safer is the possession of these necessities with him, than the luxuries or profusions of the rich, without these concessions, and the respect due to them in the obligations and duties of men arising from them. Men in poverty and distress might gain a temporary relief in breaking down the laws, and assailing and appropriating to themselves the greater affluence or possessions of the rich, could they do this successfully; but by the same rule they might and would be despoiled of that they so lawlessly and unjustly possessed themselves of; and whenever measures of such nature are had recourse to, the order and system of society, and safety to person and property are broken into, and the distress and prejudice of the whole body of society where it occurs, are, and must be, the inevitable result.

This is a subject that has afforded much discussion and diversity of opinion. It has given rise to those speculations of men, whether a state of settled society, with fixed governments, and laws, and regulations, promulged for the division of land, and its passing from one to another, the security of property in general, the protection of these, together with the security to men, and generally the peace and order of society, is better or preferable to savage life, or a roving or unsettled state, where men may shift for themselves, and be, as they may imagine, independent of all controul and interference with their will, their pleasure, and their actions. It is said "imagine," for in savage life if men meet and associate, they must observe some moral rule; and why is the law or duty that respects a weapon, an ornament, game, a hut, or a canoe, less objectionable, or more to be esteemed than the same law or duty which applies to similar matter and rights in a more complex state of society, arising from civilization, where, instead of a few wretched isolated beings, thousands and millions are concerned, protected, and rendered happy? Idle speculations like these, in which light they can only be considered, are foreign to the present work, which discourses on what are the rules or laws of society or of men, as their interests or good is related, connected, involved with, or dependent on one another; and these speculations are only noticed to explain or shew their futility, and to state that they are not the subject of consideration here under morals. What is spoken on here only re-

gards the relations of men ; these speculations seem to involve that which must be inferred as reckless of men in their relations to each other, or as they are of concern to one another, if such a state could exist ; and if it could, of what moment would it be to reasonable, reflecting, moral man ?

The consideration here is of men in their relations one to another, and the general laws and rules that govern men in this respect, to see them more correctly, and as reasonable beings, satisfied of their truth, correctness, and necessity ;—in fine with what is good, the more to admire, esteem, and practise it, through a better knowledge of it. And if men will disregard moral rights, and cast off the moral obligations and duties, then are men at variance with men ; they are not associated in peace and order and for their good, but they are enemies ; for if men when they are met will not admit, or grant, or concede to one another their good, and the obligation and duty raised to each other resulting from this, there is an end of all compact or agreement between men. But men cannot do this, for morals are the laws that necessarily impose themselves on men in community, they are but the rule of his nature, where and how he is to agree, harmonize, and seek his good ; and men cannot throw off or deny the concession of good, and disavow the obligations and duties resulting from thence, but he is opposed to the laws of men, and the rules for which such consequences are ; and the others and their judgements upon

these feelings, will consign such men to the ignominy of those opposed to good. It would be in vain that men would say they renounce the principle or rule of concession of good and right in this respect, and free themselves of all obligation and duty, in order to seize on the things other men considered as property, or to abuse, ill treat, or destroy those who possessed it: such proceedings could be received in no other light than theft, robbery, or murder, tyranny or oppression, and in which characters, corresponding to their acts, they must pay the penalties of their dishonesty, their injustice, their cruelty, and their base or wretchedly mistaken conduct, in the judgment of men and offended laws.

The next point for consideration is the implied nature of the moral rights and the moral obligations or duties of men in this respect, or of good being implied of men. The moral rights, and the obligation or duties of men, arise or result from being granted or conceded by men to one another, but there is no stipulation, or express mention or declared agreement of such grant, or admission, or concession of good to one another by men, or that men shall do good, or that they shall observe or abide moral obligations or duties in return; but yet men are held bound to admit or allow each other's good, and to be subject to the moral obligations and duties, or these things are expected or required of men without mention, and men are consequently held entitled to their rights, and are judged as they observe the moral obligations or duties or not, and without any stipulation or de-

clared or avowed agreement; and it is therefore said rights are implied, for without mention they are expected or understood as what ought to be, and men and their actions are judged as they observe or regard the moral duties or not, or do good or evil. Thus men when they meet are without any express agreement or declaration, held entitled to their rights, and it is considered without any mention or avowal, that they should have regard or consideration of one another, and behave and conduct themselves with peace, or good will and civility, or friendly or good feeling and intention towards one another, or generally have regard or consideration for one another for each other's good : and so likewise in their dealings and transactions, that they shall be honest and just, and speak the truth, and abide and observe all the moral and virtuous precepts as the means of doing good ; and this, without being required, or it being expressed, or any mention or declaration made that they should do so ; but these observances being for the benefit of men or good, they are implied as their rights, and the moral obligations and duties ; and men are held responsible for their conduct in these respects, and judged accordingly.

That men do not always meet in peace and amity, or with good will and intention towards one another, or are civil and humane, or are honest and just in their dealings, and speak truth, is unfortunately but too true, but it is nevertheless considered that such are the moral obligations or duties of men, and consequently that they ought to do so, and they are consequently judged accord-

ingly, or their actions estimated good or bad, as they observe their duties or neglect them; men not observing the moral obligations or duties is no denial of the implied nature of the moral obligations or duties of men and of implied rights, upon which their duties are founded or arise. It only proves men will do wrong, and will not always adopt or follow the right path, or conduct themselves properly, notwithstanding they know their duty, but it does not deny or disprove the implied nature of the good, or indeed could they be held responsible for their good or evil conduct if it did, which all men are.

Neither does it alter the nature of moral rights, or of the moral obligations and duties of men being implied, that men when they have disregarded them, or there is ground or reason for supposing men not well intentioned, or there is reason to doubt their conduct, that inquiry is made as to the peaceable or good disposition or designs of men, and a declaration is then required of one another in such respect.

These things, it is conceived, do not alter the nature or fact of the implied good of men, or shew that the moral obligations or duties of men are not implied. These inquiries and declarations are only precautions that men, aware of the frailty, and vice, and evil in men, may provide for their safety and security in cases where rights have been disregarded, and the obligations or duties of men have been departed from, or there is reason to suspect they may be, or the intentions or designs of men may be doubtful. But moral rights, and

the moral obligations or duties of men, are nevertheless implied ; because, although men will not regard them, they are yet judged by them, and held culpable for disregarding the one, or by their departure from the other : proving by this, that they are referred to as that by which men are judged, and necessarily therefore implied, since they are not declared or expressed, but referred to in the judging of human actions, or that the observance or neglect of them govern men in their judgments in these respects, as men have observed them or not, or may do so.

It remains to be observed, that men are always bound by moral rights, and the moral obligations or duties ; or in other words, they are a law or rule that men are always the subjects of. For whatever force, restraints, compulsions, or necessities may compel men to disregard moral rights, or to do wrong or evil, whenever such forces or compulsion cease, men are expected or are required of each other to regard the moral rights, and to observe the moral obligations or duties, or return to what is good. No tyranny or oppression, no ignorance or want of knowledge, no want of power or ability, and no artificial causes of fraud or imposition, or pledge or promise obtained or enforced, when such power or force cease to exist, are considered as binding upon men : but when they have it in their power to regard the rights of men, and return to their moral obligations or duties that are required of them, and understood or implied, and for not doing good when in their power, they are held responsible, and be-

come accountable to one another for their actions. Thus all immoral bargains, or agreements, or undertakings, pledges, or promises, from whatever influence or power arising, are vicious and bad from their commencement, as opposed to, or contrary to good, and the duty of men; and men are held absolved from all ties, or obligation to observe or perform acts contrary to their duties; and where in their power, are held bound, to respect moral rights, and to follow and pursue the moral obligations or duties, and are held accountable for omitting them, or not doing good.

THE CONSIDERATION
OF
THE PERSONAL RIGHTS.

HAVING generally explained how the moral rights and the consequent obligations and duties of men are derived, the next step will be to proceed to consider the subject more particularly, for the better instruction and means of direction in morals.

It is proposed to do this under the heads of the Personal Rights of Man, Property, and Government, or Law,—these being subjects to which whatever concerns man, his good or benefit, and his actions esteemed good, more or less refer. Perhaps every consideration might be comprehended under that of the personal rights of man, as all good refers to this; but as property, and government, or law, form distinct subjects, and of such common and great import and concern to the benefit or good of men, what relates to them may be separately considered; and as chief or principal subjects which concern moral rights, they offer themselves as heads for classifying or considering the benefit of man, or what is morally good, and consequently the moral obligations and duties of men in these respects, and what men are required, therefore, to respect or regard, or

have consideration for, and to govern and regulate their actions and conduct by, and to which men, by the grant of their rights, are held bound to regard and respect.

On the first of these subjects, what will be observed will be little else but a recapitulation in part, of what has been before said generally as to moral rights; what having been before said as to this subject, and the moral obligations and duties of men, being applicable in a particular consideration of man as to his life and person, viewed separately to property, and government, or law. This repetition, with some observations necessary to explain some matters that otherwise might tend to mistakes, or confusion, or to mislead, or perplex many in their considerations of the subject, will comprise what will be observed on the first head; and which is prefaced to account for stating what may have appeared before in this book, as well as for the short notice on this head.

Of life, every thing being dependent on this as concerns man, little will be required to be said upon it to prove or shew its importance. It will, however, be necessary to state, that as every thing valued or desired by men, arises with and depends on life, that, of necessity, is of first consideration and importance. With life must be included his body, mind, and person, generally, of man, and with these, again, health, happiness, his actions, or freedom, or liberty. These, therefore, all form matters of regard and respect of men, and which it becomes the duty of men, therefore,

to regard and respect, or have consideration for one another concerning these things.

The right, or claim, or good, or benefit of men in this respect, or to such things so stated, of men in their individual capacity, or what men are pleased to call or designate as right or title, or claim in themselves to their good, their lives, their persons, and their happiness, is by the grant and concession of men to one another implied in their judgment of what is right and proper in this respect, and the regard or consideration of one another in that which is requisite for this, or such is the result or effect of such grant or admission, or concession of men. Which right is but the acknowledgement or agreement of men that each individual shall enjoy these things without interference or interruption; or affected by the power of each other, and which every one possesses to interfere with, molest, or affect one another in such respect. The right or claim thus founded or established is at the same time governed by limits or restrictions, as necessarily must be the case to prevent the interference of men with each other, and to preserve the right and claim acceded; as an unlimited grant or concession in these respects would be quite as repugnant and prejudicial to men, as if such rights were not granted; as thus might every one invade or molest each other, and the unlimited admission of right would be as much (except as to mere implication or mental reserve that men had such right) as not admitting the right; or would be the same thing in effect, as

men would for any restraint imposed in the grant or concession of the right, according to any reasonable understanding of unlimited right, have the power to interfere with and molest each other as if the right and claim were not granted, but every man might act as he chose ; and the law of might, or power, or force alone, independent of reason, kept men within bounds of order and peace towards one another. In the grant or concession of good or right to men in this respect unlimited or unqualified power of action is not meant, nor is it given ; but in effect the grant or concession of right is a limited, restricted, or regulated mode of action to respect and consider one another's good.

The rights or good therefore of men in these respects of human creation, or of moral or reasonable existence as to his life or person, is the grant and concession of these things with the limit or restriction of each other not to interfere with or molest one another, and that is practicable for each other's good, or enjoyments of the rights granted or conceded to one another. The limits or restrictions in this respect may be considered, and are in fact, but the control and restraint over the actions of men that, left to the wildness of mere nature, or an uncontrolled, or an unregulated state of action, would be constantly operating to the interference, and molestation, and prejudice of each other.

These rights and claims that have been alluded to may be distinguished as personal rights or claims of men, the several matters mentioned

under this head being included in his person. By these rights, and the good of men generally thus granted or conceded, the moral obligations or duties of men arise, to respect and regard these rights as they or their actions become related, or connected, or concerned with each other in the transactions or concerns of life ; and men thus claim of one another the respect necessary and due to support and preserve these rights. Without the good or rights in this respect being granted and conceded to men, it cannot be seen what right or claim men can have on one another against any interference, or for any offence, injury, or want of respect, as each would be free to act as he liked, and the only control would be that of force or power, but there would be no moral obedience deduced or founded through his reason as there is in the claims on each other for his good or the benefit granted and conceded in this respect, and dependent on one another ; and wherefore men are behoven to have respect and consideration of one another, and which form the moral obligations or duties of men in respect of the life or person of man.

A word here may not be inappropriate as to liberty. Liberty and right in this respect by some authors and philosophers, political writers, legislators, and lawyers, have been asserted to be a pre-existing or natural right of men, and often to account for its abridgement, and in the indignity offered the fond fancy or imagination of natural rights, they explain that it is for the necessities of society and the good resulting they are and must

be content to abridge their liberties ; thereby supposing liberty a thing existing in men, and a right they have and yield, or give up, or is infringed on in a measure or degree ; and that they suffer in some degree a wrong. Now the fact is before shewn, and is witnessed in the rights granted to one another in respect of their persons alluded to, that men have right of liberty, but liberty, or that freedom of action so called, or which men are entitled to, or enjoy under that term or meaning, is granted and conceded ; and liberty in an absolute or unconstrained manner of action does not exist as a right, and it is no wrong therefore to abridge or restrict their action ; but the wrong in this respect exists alone in not giving men their just right of action, or fair share, or proportion, that one in justice is entitled to as well as another, this is all the wrong they can suffer. But men do not grant or concede in the right of liberty or freedom so called, unrestrained liberty or unlimited right of acting, but limit it to that rule which shall be good for one another, and even subject them to a right reserved over one another in the moral obligations and duties of men.

There is then no giving up or condescension, as sticklers for the natural rights of liberty would affirm of men yielding their rights in this respect for other good, or any right in this respect, for they have no right but what is granted. And to suppose there were rights otherwise than were granted, what obligation should men obtain of one another in this respect, for if liberty were their right per force of an existence in themselves,

independent of any concession or benefit conferred, there would be no duty or obligation raised upon them ; on the contrary, as those who hold to the native liberties and rights of men in this respect say, they would be injured by the tie or restriction of obligation, and the rights and claims others have on them in this respect of their obligations and duties. While on the other hand, granting rights in respect of their liberty, (as is contended here is granted,) the moral obligations and duties are raised on them ; and in these to consider and respect others in the rights that are granted and conceded to one another in this respect, or of liberty, and as is done generally in that of their good. And in fact the liberty so kindly and condescendingly given up, as these philosophers suppose for other good resulting in society, is, what would be nothing more than the mere power of a man to act like a wild animal or creature of no intellect : a privilege or benefit of no weight it is humbly considered as compared with intellectual man, and certainly a matter of no consideration as compared with man proceeding upon the direction of his reason and refinements elicited through its cultivation, the civilization of man and moral improvement.

On what may be in unison or accordance with the rights thus conceded, and the duties and obligations of men in respect of their lives or persons, or the particular acts that are right or wrong in men in these respects, or in accordance with their duties and obligations to each other, it is not the intention in this work to inquire into ; being

too minute, and however matters of importance for separate and distinct consideration and discussion, cannot be considered here ; the business here is of a more general nature : but what will be conformable to the duties or obligations of men will be found in the precepts of life, termed virtues, and duties, and to these must men be referred. Having stated the general law or ground of their observance, they are sufficiently obvious, or men will learn them in the practice of their lives to know what they are, and through the means of their education ; and what are in accordance with these in practice, again, are matters of the judgment and discrimination of men. It is professed here but to explain moral rights, whence they originate, or are founded, and how men are regulated or governed by them, and not to enter into the minute circumstances of human actions in accordance with this subject ; but which minor acts and things must bear reference, and be in accordance with, to be approved and deemed good or right morally.

What, however, chiefly concerns or affects the benefit of men or moral good, and the actions of men bear reference to, besides the life or person of man, alluded to under the heads of property and government or law will be considered more at large, and some matters in reference to these will be entered into more particularly : and with this view, that a more particular knowledge of these subjects will be the means of men seeing what conduct or actions will be accordant or consistent with these subjects, and which human actions do

chiefly refer or relate to or concern ; and are therefore among matters of the first importance and consideration to men : and what will therefore be most conformable or consistent with these, will form the duties or obligations on them in these respects, or morals. These subjects will be treated therefore more at large than that of life or person, which speaks for itself, being a matter so plain, and no ways complex, or at least comparatively so with the other subjects ; while the other subjects are of a more complex nature.

Before however the subject of the consideration of personal rights is quitted, there is one subject or system which is so opposed to the good or benefit of man granted or conceded in relation to his life or person, and generally personal good or rights, that it is considered it requires particular notice, especially forming as it does so great an exception in practice among men, and the theory of morals explained in these pages of the grant or concession by men to one another of their rights in this respect, as far as rests with, or is dependent on men, and the consequent obligations and duties of men for the regard or consideration of that good granted or conceded by one another in their rights.

On the admission or concession of rights, it is proper to be noticed, that there are some exceptions in practice, that is not in strict accordance with this general rule or principle ; or otherwise there are cases which exist, where it is only partially shown or admitted. In making this observation, it is not meant to speak of the exceptions

of powers of chiefs approved, or the powers of despots assumed or usurped over men, or of the necessary powers or authorities given to some men over others to govern or regulate men or what is considered necessary or supposed to be so, for the better ordering and regulating, men in society. But what is here alluded to is the manifest and avowed infringement of this rule or principle in morals of the grant or concession in respect of the rights of men, and such infringement recognized as legal, and even affirmed to be just because legal. What is meant, is vassalage, and slavery, or what is so termed, and is generally understood by such terms. Under which terms the persons of men are considered as the property of those termed lords, masters, or owners. Vassalage having in the morals and enlightenment of this country become extinct in it, the observations that will be made, will be only intended to apply to slavery, the maintenance of which is found to exist in some of its dependencies. In the observations about to be made, it is requested that it be not considered, it is either advocating or justifying the act or measure of slavery or condemning it ; but merely speaking to, or setting forth the facts of the case for consideration in regard to its moral bearing.

Slaves, or what are so considered under such term, as has been generally stated, are men considered as the property of other men, and are legally recognized as such. In this no denial can be made of the system not being in deviation from the consideration of the personal rights of

men ; and the rule or principle of the grant and concession of such rights is, it is evident, not followed, or observed in this respect.

It is moreover considered very probable that such states of men may exist to all eternity, and the question here proposed to be considered is how it is to be reconciled. It is professed to be viewed only on the grounds of policy and necessity.

The personal rights of men, as has been seen, are granted, admitted, or conceded by the tacit or implied consent of men. All men are bound by the concession ; no exception can be made, either for ignorance, or dissent, or denial, or perverseness of men, all men agreeing to it in their judgment of what is right and proper in respect of one another, and by the implied rule or principle of these duties or obligations that they are to do good, they are bound to regard and respect each other. Should then deviations be made in it, men stand opposed to the rule of morals, and to their moral obligations and duties, and for this infraction men are exposed to the reproof and censure of men, and those offended against, and according to the degree of the offence are subject to the punishment, or means of prevention, for such infraction adjudged proper, or assigned by the laws, had justice and the laws their due order or course, but in the instance of slavery they are suspended. Men deprived of their rights without just cause of forfeiture, are suffering this infraction of their rights, and the compact so far is broken with them by those imposing the infraction. A slave

therefore not being considered by the same rule as his master, a free man, with regard to his personal rights, cannot be considered as bound by the moral obligations or duties. The guide for his conduct will be his own voluntary good will, and sense of rectitude in what is moral right, as right in reason for human good, and the rules and limits imposed on him or allowed him by the laws, for the assumed right or authority of control over him or to exact his obedience is sheer necessity of his master, or state, to whom he is subject. But no reciprocity of right or interest is here raised by the grant or concession of right. The moral law is here infringed, and a degree of injustice or oppression must be considered in these cases as imposed on men. Where, then, such conditions of men are found to exist, it is conceived such can only be placed on the following grounds as a justification of the exercise of the infraction. Is the practice necessary for the states or colonies where it exists? Are those states and colonies necessary for the governments they belong to, in respect of their power; and in this, their safety, at the same time? And would the abandonment of such states or colonies, prejudice their parent or chief government by becoming the estate or colony of another government? Would the abandonment of such states or colonies lead to the alteration of such infraction of rights, as they would become the estate or colony of any other government who had power to possess themselves of such states or colonies, and who of necessity must and would adopt the same infraction? And whether,

notwithstanding that wars may be occasioned to obtain the subjects of property, whether upon the whole the effusion of human blood is not spared by affording a mart for captives among barbarous and uncivilized nations and people? And whether a greater portion of human happiness is not rendered to men although in slavery, than if the excess of population produced by climate and the exuberance of land in the savage and barbarous states where slaves are derived, were left exposed to the ferocity of savages, and the inhumanity of uncivilized and barbarous races of men, the effect of their climate, their country, and possibly of their own constitution or nature?

Such considerations offer themselves in policy, and necessity, for it is conceived it would be in character with the sophist, but not of the moral philosopher, not fully to admit the infraction of the moral laws or rule for human action; and that no reason can justify such conditions, in purely moral considerations of what is right as between man and man: and it is considered that judgement can only determine, when and where this infraction can be suffered to exist, should it be upheld or maintained even on the score of necessity. Nor is it considered the infraction should, or could be ever tolerated with safety, or ought to be suffered to exist where societies already are formed, or can be framed, on the rules of moral rights; that is, wherever men are free, and the laws of morals or reason are the base for men's direction or government, and slaves can be dispensed with, it is as impolitic, as it is assuredly

unjust, to allow of the infraction of personal rights.

But it ought to be observed, that although this infraction of personal rights may exist in slaves, yet there is no reason why they should not have every moral consideration, except in that opposed to the necessity of their being slaves, namely, that of the property in their person, and their labour ; for though concession of rights, and the duties of men resulting from this may be suspended in the case of slaves, yet men are not to lose sight of the other motives that ought to influence their conduct besides their duties ; and in this case should be called in, the aid of the virtuous motives of men resulting from reason, for the promotion of every good, and humane, and genial act and consideration, as being good for man, and therefore moral and right for man ; and what therefore in reason men ought to regard and observe, and on principles of moral rectitude, exclusive of considerations of duty, but purely as right or proper in human judgement ; and every kind and humane act and attention not inconsistent with the property in the person and labour of the slave, in all moral reasoning and consideration should be adopted : and the government or law that sanctions the infraction of the personal rights in the instance of slaves, will do well at the same time to provide for every kind and humane protection and consideration of the beings so subjected.

With this brief observation on the subject, the purport intended by the mention of it is answered,

and further comment is not required here, both as the subject is not estimable in a moral point of view, and is sanctionable only on policy and necessity, and the consideration of it is of no pleasing nature ; but it is likewise not a subject strictly within the pale of morals arising from the considerations of what is moral in a proper sense of that term, and which is the inquiry here ; and it is not a subject therefore that calls for consideration here. At the same time being a subject which is a matter of practice or of morals in the full scope or sense of the term, and may exist at all times, and forming a matter in which is witnessed a deviation from the rules and principles of the grant and concession of rights, and of the consequent obligations and duties of men, an explanation of such an acknowledged breach of these principles, and a breach that is sanctioned and rendered legal should be given to shew that the subject has not escaped attention, and that exceptions may exist in the practice of morals, however purely grounded in principle, and be sanctioned under deliberation of the case.

On this it will only be considered necessary to add another observation, which is, that it is considered possible that climate, country, and the races of men in such, may all conduce or determine to a state of slavery. But if by civilization and improvement of the human mind, and in consequence the energies of mind among mankind so situated ; the humiliated state of men in this respect may and does wear itself out, then when such improvement can be, and is effected, (and

which will and must ensue of itself without force of artificial means,) the policy with the necessity of the measure will cease among the nations where it exists; who, while the state of particular races of men conduce to it, find for their own prosperity, and in this their safety, (as the interests of one nation or state is opposed to another,) they are compelled to adopt and sanction.

To return to the subject of the personal rights of men, and of the moral obligations and duties of men. It has been observed that men acquire their knowledge or sense of their obligations or duties practically in their intercourse with one another. Here it may not be improper to notice the facility with which men gain or acquire the practical knowledge of morals in regard of their duties in their transactions as to life or person in the intercourse with one another in society or community, or where their actions or interests interfere, or are related, or connected in this respect, and judge and determine the right or wrong with scarce the appearance of study or thought; and without ever weighing what is the base or ground of moral right or wrong, or whence the moral obligations or duties originate; yet practically acquiring a sense of their duty and observing it. So happily has nature combined the common discernment of men of what is good or right for their necessities, and generally disposed men in unison with it. But it is manifest that the nature of men's rights in respect of life and person, and the moral obligations or duties, how they arise and how they proceed, and how they operate,

should be explained for men to have a right and correct knowledge of them, to appreciate or justly value them, and to act agreeably to such rule or authority, for their better direction or conduct in life ; and that having the true nature or law of their action or their conduct explained, men may not fall into errors or conceits of ignorance, arising from untutored minds and imagination, and which mislead, confound, and hide the true and plain principles of human conduct ; and also, where under ignorance or in error, to correct their errors. For although what is good, and as such is his duty, is plain enough, yet the sceptic, or the sophist, and casuist, may always doubt and pervert the object of men in what is good, or raise questions even whether he is to do good, or whether his duty is any thing more than what is imposed arbitrarily by men for what is good, convenient, or desirable to particular interests, without having any other ground or reason for his obedience ; and which, if they could avoid therefore or transgress, and it were their advantage to do so, they are at liberty to do, and to follow their own wishes or inclinations be they ever so unjust. But the explanation shews that what is good and is his duty in this respect is well founded or capable of reasonable explanation ; duty being required at the hands of men, for the good men receive at each other's hands, or for which they are beholden to one another in the concession to each other of their rights and in this of their good ; and finally that men, in the explanation of morals, its laws, and rules, may see and know how much their good is

dependent on morals, may by better understanding and comprehending this in the explanation of them, learn to appreciate and value morals, and regard their duties and obligations to one another as that owed or due for all the good they take at one another's hands, or in their grant or concession of their good.

In considering the obligatory doctrines of morals or duties of men, they should ever have their attention drawn to the consideration of the motives to do good in a virtuous or good disposition. This is a source of good in men that should never be forgotten for the interests of men ; and they should ever remember that the happiness of men is eminently dependent on the good disposition of men, and men voluntarily doing good, or what is morally right through the direction of reason, which points out virtue, or what is good, or the benefit of man as right in every reasonable point of view independent of duty. It is considered proper to remind men of cherishing right inclinations and dispositions as beneficial in the highest degree for human happiness, and as supporting and supported by, the moral obligations and duties of men.

It is not intended by any thing here said on the moral obligations or duties, to lessen or depreciate the esteem of men for virtue, or its force or efficacy with men. What is advanced is but for the purpose of strengthening, confirming, and supporting the power or influence of virtue over men to do good by shewing the claim men have on each other for its observance or performance, or what is in correspondence with it, namely, what is good, or

the benefit of man. To aid, in short, by the power of obligation drawn or established through inquiry in the nature of the subject of rights, what the well disposed or virtuous would practise from free will alone.

THE CONSIDERATION
OF
RIGHTS TO THINGS OR
PROPERTY.

NEXT to personal rights, the subject of property is that under which it is proposed to consider moral rights, and the moral obligations or duties of man. To have a knowledge of this, it is proposed to take such a view of the subject, that shall set forth its nature in the origin or ground upon which it is founded, sanctioned, or rests, that the rights or good of men may be seen in this respect, and the obligations or duties of men in consequence as to the respect or consideration required of men concerning it.

The rights of men have been shewn to arise in the grant, or admission, or concession of men to one another, and from which concession of good to men in respect of property, or the things of which it consists, the moral obligations or duties of men arise or result in this respect, and of men towards one another in respect of it, necessary for its preservation, and the object of making it, or the benefit of men or good by the creating or establishing it.

The better to see and understand the subject of property, it is proposed to enter more particularly into its nature or history, and to do this it will be proper to see what the notions or ideas of men have been, or are entertained, on it, and the various and different opinions in regard to its origin, or authority for it, and in some respect to their rights over that of which it consists; and to justify the further endeavour in this work to explain the subject of rights, and to set before men the moral and rational grounds on which property is founded, of men's rights in respect of the things of which it consists, and the consequent moral obligations and duties in this respect.

Most, if not all writers, agree in the necessity and utility of property for the benefit of man or good, and deriving it from human authority in acquirement, possession, labour, or law, or other moral process or source arising from the act of man or human agency.

The first view that will be taken, will be of what property relates to or consists of, or what is meant by that term, and then the different notions or ideas entertained on the subject of certain authors or writers will be adverted to, for the purposes of the elucidation or explanation of the subject proposed.

Now then, whether property is considered as a right, or power, or authority, which men possess, or have, or claim, over any thing, of which the subject may consist, as land, trees, grain, vegetables, fruits, or the product of the earth, or water, or cattle, or creatures; the power or right they

have over these, or any thing of human art, as houses, huts, tents, canoes, boats, ships, arms, implements of business or trades, wares, merchandize, or cloth, or matters, the product of, or procured by human art, or labour bestowed on the various subjects or matters of the earth, or nature; and whether such right or power is vested in many in common, or in one only, it is considered will make little difference in the consideration of the subject. As whether property is in one or more, or consists of the gifts of nature, such as land and its produce, and wild animals or creatures, without the art or aid of man to feed or to promote their breeding, growth, and care; or those things gained, raised, or procured, as the product of human art or labour; is considered as one and the same: that is, no distinction can be made in the general views here in the consideration of property as to the quality or nature of the thing of which it consists,—that is, whether it is land or cattle, or the produce of the land, or of human art.

All these things will be considered under the general term or acceptation. And this is premised, because distinctions are held by some on these and various other accounts, needless to mention, as arising from the circumstances whether property belongs to many or few, or is common, or is belonging to individuals only; and whether it is of things, as it is held by some, given in common to all, as land or its products, and the creatures of it, without the aid or intervention of man, his arts, or power, by the all kind and bountiful hand of Providence in creating it and them, or

whether of human art or creation by his, man's, power and ingenuity of obtaining the fruits, or products of the earth, or the wild animals inhabiting it, or making or converting its products into forms and contrivances, and for his service and use. The former, as some maintain, being the immediate gift of the Creator, without the intervention of man, his power, his labour, his art, or ingenuity, is common or open to all; the latter, as obtained through his art, power, or means, being his, through whose art or intervention it is made or obtained by such art or intervention. There is a plausibility in this reasoning in the latter case, which induces the adoption of it as the ground, or authority, or reason on which property rests or is founded, or on which men make a stand for the right or power over things constituting property, but which, as it is unsound as a ground for constituting the right of men to things or property, cannot be admitted; and as not the true ground, it is apt to mislead men in many notions concerning it, and is the occasion of error, and mischief, for want of the right ground or reason being understood, or being mistaken in this misconception of it. One of which errors men are apt to fall into, by supposing their labour gives them right, is, the erroneous notion of their having *absolute* right over the things constituting property. This ground or reason may be admitted as a means of deciding, or as one means of decision, of the right of individuals, or to whom property, or the different things of which it may consist, so made or obtained, shall belong; but it

cannot be considered as its authority, or sanction, or the true reason on which property rests. For instance, he who makes or builds a hut, a house, a boat, or makes a net or toil, or kills the wild creatures of the plain, or forest, obtains game, or reclaims or domesticates any wild creatures, and breeds them tame, or cultivates or improves the land, fells trees, or gathers or collects wild fruits of the earth, whoever does these things, it shall be a reason for deciding who shall have or possess, or have the right over, these things, made or obtained; but how it gives him the right, or a power, or authority over these things, in distinction to others, or in preference, or to their exclusion, or to limit, restrict, or control their actions, is not conceivable. True it is, a man may assume the right, or power, or authority, but this only rests with himself. This is nothing more than the exercise of his own power or authority, and is no more than the right of his own assumption, which it has been shewn is no right; right being that which is granted, admitted, or conceded by men.

To understand the subject of property, or to shew the necessity of the proposed inquiry, it is conceived no better means offers itself, than first to advert to the notions entertained with regard to property, and the explanations given of it by some authors who have written upon the subject, and to exhibit what notions do exist, or have existed respecting it, or the rights to things so esteemed, or termed property. And this will be useful as well to exemplify the ground on which

it rests, as to shew certain errors that exist, or have existed on the subject; and which errors can only mislead men, and consequently be injurious in their effect, through not having a just and right idea regarding it.

The first author adverted to will be Blackstone, in regard to what he has stated on this subject in his Commentaries, and the next will be Paley, who both refer to other authors, and various ideas entertained upon the subject; but the whole of what these writers have stated upon the subject, as to the history and origin of property, or that right to things constituting property, is recommended to be read and studied, as requisite to the exposition of its history and nature, both as to the notions heretofore entertained on it, and its origin or foundation, and what are the real grounds for it.

Blackstone, in his Commentaries on the Laws of England, in Vol. II. Chap. I. third edition, observes:—"The objects of our inquiry in this second book, will be the *jura rerum*, or those rights which a man may acquire in and to such external things as are unconnected with his *person**. These are what the writers on natural law style the rights of dominion, a property concerning the nature and original of which I shall premise a few observations, before I proceed to distribute and consider its several objects."

* Mr. Blackstone evidently inferring, that to the person of itself there belongs a right, but which is disproved here, the idea or notion of self-existing right, even to person, being a misconception.

"There is nothing which so generally strikes the imagination and engages the affections of mankind as the right of property, or that sole and despotic dominion which one man claims and exercises over the external things of the world, in total exclusion of the *rights* of any other individual in the universe *. And yet there are very few that will give themselves the trouble to consider the original and foundation of their right. Pleased as we are with the possession, we seem afraid to look back to the means by which it was acquired, as if fearful of some defect in our title; or at best, we rest satisfied with the decision of the laws in our favour, without examining the reason or authority upon which those laws have been built. We think it enough that our title is derived by the grant of the former proprietor, by descent from our ancestor, or by the last will and testament of the dying owner, not caring to reflect that, (accurately and strictly speaking,) there is no foundation in *nature*†, or in natural law, why a set of words upon parchment should convey the dominion of land; why the son should have a right to exclude his fellow-creatures from a de-

* Blackstone admitting the rights of other individuals, confirms the doctrine here advocated, of "rights being granted, and admitted, or conceded", but contradicts himself in his own doctrine by it, or rather is inconsistent in his reasoning and explanation.

† Blackstone here expressly denies right to exist in nature, although he defines or describes right to exist in nature as to the person of man; and no circumstance can more strongly prove that the deriving right from moral sources was not contemplated by reasonable solution.

terminate spot of ground, because his father had done so before him ; or why the occupier of a particular field, or of a jewel, when lying on his death-bed, and no longer able to maintain possession, should be entitled to tell the rest of the world which of them should enjoy it after him. These inquiries would be useless, and even troublesome in common life. It is well if the mass of mankind will obey the laws when made, without scrutinizing too nicely into the reasons of making them. But, when the law is to be considered not only as a matter of practice, but also as a rational science, it cannot be improper or useless to examine more deeply the rudiments and grounds of these positive constitutions of society."

Then, after noticing the necessity of property, Blackstone goes on to observe, " The only question remaining is, how this property became actually vested ; or what it is that gave a man an exclusive right to retain in a paramount manner that specific land which before belonged generally to every body, but particularly to nobody. And as we before observed, that occupancy gave right to the temporary use of the soil, so it is agreed upon all hands, that occupancy gave also the original right to the permanent property in the substance of the earth itself : which excludes every one else but the owner from the use of it. There is indeed some difference among the writers on natural law, concerning the reason why occupancy should convey this right, and invest one with this absolute property : Grotius and Puffendorff insisting that the right of occupancy is founded upon a

tacit and implied assent of all mankind, that the first occupant should become the owner; and Barbeyrac, Titius, and Mr. Locke, and others holding, that there is no such implied assent, neither is it necessary that there should be; for that the very act of occupancy, alone, being a degree of bodily labour, is, from a principle of natural justice, without any consent or compact, sufficient of itself to gain a title. A dispute that savours too much of nice and scholastic refinement! However, both sides agree in this, that occupancy is the thing by which the title was in fact originally gained; every man seizing to his own continued use such spots of ground as he found most agreeable to his own convenience, provided he found them unoccupied by any one else."

Paley, in his "Moral Philosophy," Vol. I. Seventh Edit. Chap. IV. on Property, observes on it under the title, "In what the Right in Property is founded,"

"We now speak of property in land: and there is a difficulty in explaining the origin of this property, consistently with the law of nature; for the land was once, no doubt, common, and the question is, how any particular part of it could justly be taken out of the common, and so appropriated to the first owner, as to give him a better right to it than others; and what is more, a right to exclude all others from it.

"Moralists have given many different accounts of this matter; which diversity alone, perhaps, is a proof that none of them are satisfactory.

“ One tells us that mankind when they suffered a particular person to occupy a piece of ground, by tacit consent relinquished their right to it ; and as the piece of ground, they say, belonged to mankind, collectively, and mankind thus gave up their right to the first peaceable occupier, it thenceforward became his property, and no one afterwards had a right to molest him in it.

“ The objection to this account is, that consent can never be presumed from silence, where the person whose consent is required, knows nothing about the matter ; which must have been the case with all mankind, except the neighbourhood of the place where the appropriation was made. And to suppose that the piece of ground previously belonged to the neighbourhood, and that they had a just power of conferring a right to it upon whom they pleased, is to suppose the question resolved, and a partition of land to have already taken place.

“ Another says, that each man’s limbs and labour are his own exclusively ; that by occupying a piece of ground, a man inseparably mixes his labour with it ; by which means the piece of ground becomes thenceforward his own, as you cannot take it from him, without depriving him at the same time of something which is indisputably his.

“ This is Mr. Locke’s solution, and seems indeed a fair reason, where the value of his labour bears a considerable proportion to the value of the thing ; or where the thing derives its chief use and value from the labour. Thus, game and fish, though they be common, whilst at large in the

woods or water, instantly become the property of the person that catches them ; because an animal when caught is much more valuable than when at liberty ; and this increase of value, which is inseparable from, and makes a great part of the whole value, is strictly the property of the fowler, or fisherman, being the product of his labour. For the same reason, wood, or iron, manufactured into utensils, becomes the property of the manufacturer ; because the value of the workmanship far exceeds that of the materials. And upon a similar principle, a parcel of unappropriated ground, which a man should pare, burn, plough, harrow, and sow for the production of corn, would justly enough be thereby made his own. But this will hardly hold, in the manner it has been applied, of taking a ceremonious possession of a tract of land, as navigators do of new discovered islands, by erecting a standard, engraving an inscription, or publishing a proclamation to the birds and beasts ; or of turning your cattle into a piece of ground, setting up a land mark, digging a ditch, or planting a hedge round it. Nor will even the clearing, manuring, and ploughing of a field, give the first occupier a right to it in perpetuity, and after this cultivation and all effects of it are ceased."

And then, after a few more observations, Paley observes, " The real foundation of our right is the law of the land."

These extracts from writers are sufficient to shew the ideas entertained on property, and how much it has been sought to substantiate the grounds or reasons on which property is founded

or rests, and from which must be inferred the very great importance the reasons for it have been considered by these authors. At the same time it shews how various the ideas entertained have been, and are, in regard to the foundation and authority of property ; and how unsettled the notions of men have been on the point of its authority or foundation ; yet how much sought for and apparently desirable it has been considered to ascertain its true ground. It is useless to comment on the subject of these notions and these writers and the various notions entertained with the plain case before stated here of right or the good of men ; but it is notwithstanding past question useful to mention them, to shew the world the ground or reason on which property rests or originates has been sought for by men, and as a most desirable and important matter it must be presumed, and yet by the variety and contrariety in men's notions or opinions upon the subject, the real ground or reason appears to have been very undetermined, and offers the best apology for the present work, and the endeavour to explain morals, its laws and nature, and the foundation or origin of property in morals, or how the rights of men arise in the things of which property is constituted ; or that power and privilege men have, or use, or exercise over things, which they call rights, originates, exists, and depends.

For right to things or property, or that power or privilege men have or claim or use or exercise over things, which they deem their right over, or to their property, the attention of men is called

to look to that general principle which moves or operates with men of their good; and in the grant or concession of this, men grant and concede their right to things for the good or benefit of men, which right constitutes property; and in this grant or concession result or arise the duties or obligations of men as to property, or that respect or consideration of men of one another in regard to the things of which property consists, which is requisite for the right granted or the privilege or power that men have or enjoy which constitutes their right or property in things; and therefore required by men of each other in the right granted or conceded to one another, and become a right and claim of men on one another in respect of their actions, or the moral obligations or duties of men in respect of property.

The origin or authority of property has been so generally entered into here in the general explanation of morals as to rights, that it must be apparent to every one who may have read with attention what has already been stated.

How property spreads into the various forms or modifications in which it is found to exist or of what it consists, relates to, or concerns, will be speedily shewn.

The establishing of property is likewise a proof of the practical good acquired and observed by men before alluded to, while the ground or nature or reason is yet unsettled, or not uniformly agreed upon as to the explanation of it, and consequently shews the subject has remained unexplained, or at least it must be presumed that for want of proper

or sufficient explanation the ground or authority of property has not been better understood, or the notions of men more agreed upon this point.

In the notions or ideas entertained by authors of the origin or foundation of property, there is one idea, that it will be proper to advert to both on account of its apparent plausibility, and of its being a real ground or reason for men's decision in respect of property, although not of its origin; and the reference to this will be useful to correct any erroneous notions which men may entertain on the subject, and of the authority which has promoted it, as also in the observations that it will induce, to illustrate the ideas maintained here as what is its true foundation or authority.

In the notions maintained by writers, the idea that what is made or obtained by human art, industry, or labour, gives the right, or founds it, appears a very plausible ground to found or rest the right upon; and it is therefore adverted to, because it is an apparently very strong and plausible ground, in which many will rest or build their authority, and when the name of so great a philosopher as Locke is attached to it, it is the more likely to be adopted and relied on. The prevalent notions and ideas concerning this point having been stated, of the apparently plausible ground on which property rests, that what a man makes or raises, or obtains by his art, labour, or ingenuity, is his, and becomes his right by such means, (if there be still any who adhere to it,) men, if they will consider, will see is erroneous, because right or title, can only be derived from others, as has been

shewn. They will, moreover, see, that what men make or obtain, being so far considered as giving right or title, that it is a rule infringed on constantly, both in that which a person makes or obtains, is not by any means always held or considered to be his, but that most property or right which men have to things, is not of their own making or obtaining, but comes to them, or is derived through other channels or sources. But, in truth, the bare making or obtaining things would apply to very pernicious effects or consequences to society, as the bare making or obtaining would apply to acquirements by all means, robbery, predatory attacks, or fraud practised on others, plunder of war, and many other practices most prejudicial, and contrary to morals or the human good. But when men reflect that land, the chief of all property, is mainly derived to the possessors from descent, gift, the labour of others, or other sources not dependent on individuals themselves, or of individuals making or obtaining, by clearing, cultivation of the land, even that of their own personal possession, the idea that what men make, gives right or property to things must surely vanish, and such principle or reason be relinquished ; and more especially when men reflect, that what a man makes or obtains, is frequently devoted to another, and that lawfully and rightfully, as the servants and labourers work for their master ; and again, the master's trade, craft, or ingenuity, is subject in its contributions to the state at large, there is less reason still to rest on, that what a man makes or obtains is his own of right

or property, and that exclusively of another, nay of all others, and of whom the man's own making or obtaining gives him right to exclude them, and to limit, restrict, or regulate their actions agreeably to his right, or to the respect or consideration of it.

But it is further to be observed, that if a man's right and property consists in what he makes or obtains, then it must be understood as a right constituted of itself from the act, self-existent from the very act or means of making or obtaining, dependent on nothing else for its authority or sanction ; and so self-existent by the act, created or authorized, and not given or granted, it is not the subject of obligation to others, and no debt or duty remains to be paid or observed to them, a rule or principle perfectly at variance with, and opposed to moral doctrine and reason, and contradicted in fact and practice, since men have moral obligations and duties in respect of property, to which they are held beholden both by men and law, and to take or destroy another's property is held a great crime ; and theft and robbery are punished with the most severe inflictions, and the criminal held in the most ignominious light. It cannot be considered, therefore, with reasonable man, but such ground of property must be seen and acknowledged to be erroneous.

Making or obtaining of things, it must be admitted, is a means of deciding, or men agreeing, who shall have a right or property in things, and utility, but it is of no authority for property in things. And means of

decision, art, labour, and ingenuity virtuously or properly applied, are of first consideration with men, as concerns property or right to things. But men must look at a higher and more remote source for its authority, and that it rests solely and purely on its good, or the human benefit, and the grant and concession of right or property for this benefit; and a man's own labour or art serves but as a rule of distinction for the consent of men, or the law, or rule, to agree or settle what shall be considered as the property of individuals, or to whom the right shall belong, or who shall have the right. And, however affluent or prosperous, men should ever bear in mind, that their right or property arises from and is dependent on the grant and concession of men, and that hence result their obligations and duties for that for which they are beholden to others or to society.

The making or obtaining of things, or property, (if that term is used as implying the mere making or obtaining of things,) does not establish a right to things or to property. The right being the admitted or recognized power, an individual or individuals may have to the exclusion of others; and this right, in this sense of property, it is evident, no one can make, but it must arise by the agreement, grant, or concession of others to the individuals having it, and by withdrawing or limiting the power of others.

Now, however that right, or privilege, or particular power, or authority over things, be it of land or any thing else, termed or designated as

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Now, however that right, or privilege, or particular power, or authority over things, be it of land or any thing else, termed or designated as

property, arises, and in whatever form as to extent or limit, or it may be diversified in subject or matter; that right, or privilege, or power, by which men distinguish property, it has been shewn cannot belong or exist in any individual to assume, or make, or create to himself. In further proof of this, no man can say, "I will take this land, or this piece of land, or these woods, or this water or river to myself, or this tree, or this corn, or these roots or fruits I have gathered or collected, or these animals I have caught or taken in the chace, and no one shall have a right to such but me;" or will a man saying this, or assuming such right, give the things to him; for by the same rule another may have the same right to them. In vain will he plead his labour, his art, his prior or first possession, another will say, "I have as much right as you, your prior possession is nothing to me, but my deprivation; and because you have taken or obtained those things before me, it does not destroy my claim, I have not given them up, and your pretension to them justifies my like pretension to them, and by the same rule I will acquire them of you." The folly of the position of labour or acquirement giving right when examined refutes itself, it is evident. But supposing a man's assumption of right on what he made or obtained was admitted, what would it go to? Why, that he that claimed first, and by any art extended his collection of things, or power or authority over them, might have universal sovereignty. Was there ever such a mischievous or absurd proposition, so at variance with experience and fact? Certain it is that great assumptions of

right, or property, and sovereignty of power exercised, are witnessed in very many cases of history, and even of practice, but such when considered are against morals, and big with the usurpation of right over others, or the result of insufficient or bad laws or regulations, or want of good legislation or government, or administration of law, and probably mostly of all of which may be traced to the errors that exist on this subject, especially that of possession giving right. But the rules or laws of property shew that no right really does exist, as a man to take, or assume, or claim a right over things, shall constitute a right, and give him absolute sovereignty over them; which, if such claim or right was sound or good, must, it is conceived, be considered the consequence; because the rules or laws shew, that property is dependent on, or subject to some other authority than the possessor's assumed right. Apply the idea of such assumed right to things of a man's own creating or raising by his art or ingenuity, a house, a hut, a boat, a spear, or corn, or plants grown, or ground cleared and planted, or creatures bred and reared or nourished, and what does it amount to more than in the other cases? Every one can claim a right, and the claim or assumption of right in them is as good in one as another.

As to right in things or property, it is evident one man's claim is as good as another's, and no man can claim or assume a right of himself which another cannot equally do. But a right or claim existing in things, and by which men call or claim things as their own, or term property, and which

all acknowledge, or do not deny, whence does this arise? As things exist according to nature all appear open and common to all, and all in nature can claim alike. It is evident then, if a right or claim exists in one man in preference to another, to that he claims as his own or calls his property, be it what it may, land, or creatures, or produce of that land, or made or raised by his own art or ingenuity, or labour, that the power and interference of others is rescinded, or relinquished, or withdrawn, or limited, or modified in that respect, and that title or claim is given to or vested in him to whom the property or claim to that of which it consists belongs, or he calls his own. It is therefore to be shewn how this power or interference of others is rescinded, relinquished, or withheld, or withdrawn, or limited, or modified, so as the person who has the property has a right or claim, a privilege or preference to the exclusion of others, and in a measure to the prejudice of others, or occasionally so individually considered, but not so when generally considered, or as concerns the mass of society ; for, when considering individuals altogether in society, it is to their advantage whatever partial sufferings or deprivations may be endured. For shewing this, the reason or ground of the constitution of property, or that appropriation of things which is considered property, men are referred to the object or moral of it, which men can only derive from the universal source or object of all human objects or pursuits, that is of reasonable man, which is in his own benefit or good ; for past all question the benefit of property

is the reason or object of its adoption, or its constitution and its result are also this, generally speaking, however occasionally abused or misapplied. And for the good or benefit of man, the right to the things of which it consists is granted by men, and the power or interference of others is conceded or withdrawn; for otherwise the things appropriated or taken for the use of men cannot be said to be theirs who take or have them, or to belong to them, and this is what has been termed the grant, admission, or concession of men to one another. And the repetition of this original or foundation of right to things or property, in this more familiar mode or course of argument it is hoped will not be objected to, but be found of use in the more ready or easy way of statement, especially to the more indifferent reader.

How this right or appropriation in the individual or original authority in the grant, admission, or concession, spreads itself out to lands and waters, and privileges or powers of some individuals over others, is the result of society in the course and progress of settled states and civilization in society. It may be easily conceived, and the fact is exemplified at this day, that among roaming or unsettled people, as roving savages, or wandering people, as Tartars and Arabs, that the land or territory where they lived would be in common or open to all, or at most, that temporary occupation by their tents, their huts, their flocks, or their stores, would be all their individual right over the land, to the exclusion of others; but though such people might be said to possess

no individual right to land to the exclusion of others, yet as a body, or tribe, or nation, or people, they claim or take such right generally, *or in common*, that is, such tribes or nation take or claim certain extent of lands, as their territory from which they drive or exclude others not their own race or nation ; and if they cannot do so, consider it an invasion of their rights in others coming into their lands or territory, and wrong and unjust, which, had they power to do, they would oppose, and prevent, or resent. Such right as constitutes property may be seen then is taken by tribes or nations of men over land for themselves generally, although it may not be divided among them individually, but each common on it either for hunting, fowling, or fishing, or taking its produce of roots, of fruits, plants, vegetables, or wood, or what it affords, for their benefit as wanted ; and where men become settled or stationary, or take to the cultivation of the earth, there would it make partition of the lands among individuals necessary, as well as more particular and strict laws or rules respecting property in land, as also as to its produce ; and which would be farther restricted as population of states increased and rendered this necessary. In the adoption or constitution of property, the relinquishment or limiting of the power or interference of one with another in the things or matters constituted property is requisite, and for that end it is done by implied agreement, or concession of men as to right, and is further defined or regulated by usages, customs, and laws. In rescinding, relinquishing, or limit-

ing the power or interference of individuals in favour of those to that constituting property, or to the things of which property consists, usages and laws more specially decide on what is property ; and the way it is done, or manner or limit of it, or what shall be considered as such ; and in what therefore, and how, and in what respect the power or interference of men shall be limited, or in what degree or manner rescinded, relinquished, or withdrawn ; and by such means property spreads out into the diversity and various modifications in which it is seen to exist, or that right to things of which it consists is found diversified.

However plain and self-evident the necessity of property, or constituting such right in land, and the things of which it may consist may be, it is to be lamented that some authors have so unwarily introduced positions in regard to it, that are at once appalling and hideous, and for which, as necessity urges the establishment of it, they could not be justified, if they were founded in fact ; but which positions, though they must be regarded as proceeding from good intentions, the writers certainly are not warranted in stating ; and in which, it must be confessed, it does appear, as if weary of canvassing the subject, they had vented their disappointment of all reasonable solution by a whimsical or capricious statement, or distorted representation, with the view of impressing on men, that the most horrible and monstrous state of things it is a matter of imperative duty of mankind to submit to. Not so is it the object of this work. It is therefore proposed here to ad-

vert to the necessitous cases, and distress in which mankind may be placed, alluded to by these writers, under the painful reflection and aggravation of being excluded from that which all may have or possess the same pretensions to, or right, (as they represent) in nature, and are denied and refused a participation in the bounteous produce of the earth, except by rules of law, whilst others enjoy luxury and plenty: and the law sanctions and awards the heaviest and severest penalties for not abiding in this destitute and suffering state, or invading what it marks as not belonging to them, but to others. It is best under such a view of the subject, to meet and discuss the subject of property fairly, and explain its real nature, in its utility and proper application in its different bearings and relations, and not to rest on dogmas or assertions that preclude a true inquiry into its real nature, as it were fearful it will not bear the scrutiny; and that for want of which scrutiny, its source, or the science of morals, in this respect, is not properly or justly developed, and the hideous monstrosity that authors have depicted of it, and has been alluded to, may be disproved, or shewn not in truth to exist; and from which want of science, the subject of so great necessity and utility has been mistaken, lost sight of, perverted, and abused.

In the course of these observations, it is hoped it will be shewn, that the claims of the poor and destitute, although of necessity their power and interference with what constitutes property, is restricted and limited, yet that they, too, benefit in

property, and that they have claims, and that men may not be driven to despair through want and destitution. The true ground on which property rests being the benefit of man, and that, as necessary as it may be the sacrifice of the power and interference of others must take place, yet the sacrifice is mutual, and for what good is yielded to others by it, a return of good is acquired by it, and the right given men in this respect is not absolute, and property is not, and cannot be given or granted on total exclusion of others, but is a limited or modified exclusion only; and though however the possessors have the controul, and management, and dispensation of their property left to them, and the advantage that such power over it gives them, yet that others have a claim or right reserved, however the power and interference of men may be limited, relinquished, or withdrawn; and that for the abuse of the power entrusted to the proprietor, they are subjects of the principle that governs all morals in the benefit of man, and are open to be called to account for their misuse or misconduct in regard to that entrusted to them, and are amenable to law and to public judgement.

The inquiry here made on the subject of property, while it shews the necessity of it, will confirm it, and lead to a better management, and dispensation of it, in seeing the object on which it is founded, being the benefit of man or good, and that men are dependant on the grant or concession of it but for that good, which, if it is defeated, defeats their right and title; and that whatever

rights or privileges are given men to the things of which property consists, and whatever exclusion is established, or takes place in respect of others, yet that it is limited or measured, both as to the right of the proprietor, and exclusion as to others relinquishing to the proprietor; that if transgressed to abuse, the proprietor is amenable for his conduct, and he will take the better care, therefore, of his stewardship, in the management and dispensation of that entrusted to him, as regards or affects the interests of those who are excluded the possession. It will be in this part of the consideration of property, that it is proposed to draw the attention to that great point or question which arises in it, of the claim of society at large on it. In this it is meant to include the benefit of every individual in the state, or society. In doing this, a call again must be made on the attention to the nature and origin of property.

In proceeding to the consideration of the reservation of the power and interference of men in the grant or concession of property, what the attention of men is called upon to consider is, that notwithstanding the grant or concession of men to one another of rights to the things of which property consists, and notwithstanding the laws or rules which define and confirm what is property, an implied claim or right is yet mutually given or reserved by all, and to all, in the grant or concession of the right to one another in the things which constitute property, and that such claim or reserve is recognized by all law and every government. It is in

this reservation that the great question exists, of the claim or right of society in, or to, or over property. It is to be considered, therefore, in the origin of property, or the ground or reason on which it rests, or is founded, or exists, in the grant or concession of right to the things of which it consists, and in the restriction or limit of the power and interference of men with that constituted property, whether all power and interference are relinquished from one to another of that of which property consists, or in other words, whether in the grant or concession of property, all power and interference of one with another, in respect of that which is property, are excluded, and absolute right given to the possessor; or whether in the right granted or conceded, a right also is not implied or reserved as granted and conceded by one to another, in that of which property consists, and that the power and interference of men to the things of which right is granted constituting property is not absolutely excluded, but only restricted, limited, or modified. For it would be absurd to suppose it were any thing else but modified; as otherwise were power not supposed to exist, it would be the same as if it were destroyed or annihilated, and that it evidently cannot be, property being subject to laws.

The question for consideration appears to be this,—property being that of which a right is granted or conceded by one to another, or the power and interference of one another with the things of which it consists being limited, restricted, or relinquished, is the grant or concession so absolute and exclusive that all power is absolutely

given up and relinquished to one another, that they have absolute power over their property to do as they like with it? To apply these terms more definitely and practically, the question may be stated in other terms, thus: Is it to be understood that by property is meant that the owner may use it or not as he likes, in the most absolute sense, or destroy it, or refuse or deny its benefit, or the advantages to be derived from it to mankind; and that those who have granted and conceded the right to the owner of the things of which his property consists, may be absolutely excluded from it, so that a man or men possessed of *land or the produce of land that is necessary for the sustenance of the life and necessities of others**, may absolutely deny or withhold that sustenance, or the use of the things necessary for others, even to their destruction, or what is the same may keep his land out of cultivation, or destroy his grain, his cattle, or render useless what is of necessity wanted for the use of others, and the others shall not have any right or claim to it, they having in such grant or concession constituting property, parted with it to their utter exclusion, unless with the good will or pleasure of those who are possessed of it, or deemed proprietors of that which is to be looked to as the supply or means of sub-

* In this position what may be required for individual wants, as owners or proprietors, is not a subject of contention. The question of large and superabundant property in individuals or owners. The question of property far beyond any absolute need of the owner or proprietor, which is --- it

sistence of the others in the state or society, and finally, and in effect, to defeat the object of constituting property in what is good or the benefit of man? To support this doctrine, is to suppose that men in the compact of society, in granting and conceding rights to that constituting property, they grant the land and all its products, fruits, trees, and produce and substance, cattle, and all animals existing on it to others the proprietors, away from themselves or those who do not possess such property without any reserve or limit; so that they shall be wholly at the mercy of others, and place themselves in a situation to be absolutely dependent or indebted to others for their support or sustenance, or what is necessary for that, and so that if they require it, or be their wants or necessities what they may, and under any circumstances they may be deprived of its benefit, starved, or destroyed, at the will or option of others the owners or proprietors. So monstrous a position at once defeats itself by its absurdity. But yet such would be the case, if it can be supposed or held that in property the owner has an absolute right over it; and that the community at whose concession it is given, part with all power or interference in respect of it.

It is true, in raising or creating property a grant or concession is made, and in this the power and interference of men are withdrawn, of those who concede to another that of which it consists to those in possession of it, or to whom the right of the particular thing, as land, or any thing else of which it consists, is given; but the grant or con-

cession, it is conceived, is limited, restricted, or measured, and is not absolute in the utmost or abstract sense of that word, or is absolute only in the owner or possessor to the extent only as the power and interference of men is necessary to be limited or restricted, or requisite to give the power or privilege over things which constitute property in those to whom the right is given; and the limit or restriction of the power and interference of others made over to the possessor in that of which the property consists, is not an absolute exclusion, but a limit of power, or a modified restriction, and no more. To give an idea generally of what is meant by limit or restriction, applied here as to property, lest the mind should grow confused in the frequent reference here made to the terms, it is here stated that whatever right is given, so as to constitute property, a limit or modification is implied, as well as to the power and interference of others in or over the things of which property may consist, as to the right given men over the things which constitute a property in them. So that, notwithstanding a right is given to the owner or proprietor over his property, yet it is limited to him, such as being the subject of barter, exchange, and of being generally applied to purposes of use or benefit, however various the mode of using or applying it may be, under the care, management, and direction the owner has over it; and in its abundance beyond the calls of use or employ by its owner, that it is a subject of sale or traffic, barter or exchange, for the service, wants, or supply of others, and above all, that it is not the

subject of misapplication, misuse, or mischief, or detriment to men, or generally of abuse wantonly, designedly, or wilfully; that it is also the subject of certain necessities of society or the state, and of the wants of society in cases not controllable by men, or at least of human foresight; and in various other instances which might be enumerated in which a claim or right is reserved, or the grant or concession is limited, and is implied to be so in the grant or concession of men to one another; but all of which limits or uses it is contended are saved by the reason or ground of its grant or concession, in the benefit of man, or of good.

In the establishment, therefore, of property, or the right granted or conceded to the proprietor or owner, it is taken but as the subject of human authority, and for the object the universal direction of men that of human benefit or good. It may be said to be granted for the general good, through the particular interests or good of the proprietor or owner, to whom the right is given, or who becomes possessed of it. The right, therefore, of the possessor to his domains, or his riches, however apparently absolute, or at his disposal, must be considered with limit or modification, or the subject of a higher authority or claim of the benefit of men or good implied or understood in the grant or concession made for that object for which it is granted or established, and of necessity implied, whether declared or not in that universal principle with man, of good.

That this is the fact, let men advert to the circumstances attending all rights, and if any enter-

tain the notion that in the grant or concession of property, or in the constitution or establishment of property, absolute and undeniable power is given to the owner or proprietor, in an abstract and unequivocal use of the term absolute, the fact is proved, and will be shewn to be the contrary, in every instance of human proceedings with respect to it, and to rights generally. Are not all men's acts the subject of restriction, in that for example, that they may otherwise violently assail, attack, or hurt one another, or unjustly act towards one another? And as to property; is not all property the subject of law, of usage, of custom, and practice? What is all this, but the reserve of power; of right to others to interfere, and an exercise of a right reserved in others. The right even of men over themselves, or to themselves, is not granted without reserve; for a man's liberty, or his freedom, is the subject of grant or concession; but in granting or conceding the good of men to one another, and in this their liberty and freedom, the reserve is made of that which shall be compatible with the rights or interests granted others in the same compact, that one grants or concedes to another their rights, he reserves or claims his own, and holds that other under the moral obligations or duties which are the limit, restriction, or regulation of such other's actions of respect towards him. In fact, the very restriction or limit of the power and interference of men one with another, necessary for rights or good conceded, is a reserve of right over one another in what they are restricted or limited. And

in reason it must be considered, that men, in granting and conceding rights to one another, and limiting and restricting their actions as to their power and interference with that of which the right is granted, limit and restrict the right granted, and the actions of men and their control and power in respect of that of which the right is granted, as the power of those is limited or restricted who grant or concede the right. Men, in the grant or concession of their rights, are held bound in duties and obligations, and these extend to the control of their bodies, their minds, and acts, and by this control to make them subject to serve and render service to others; and if the persons of men are thus subservient, and a right is reserved in this respect, can it be supposed that property, that land, and all its abundancies, its produce, or that derived from the produce, so common and necessary for all, shall not be the subject of a reserve of right in others over it?

Let the facts of the exercise or practice of this power which is reserved over property be referred to, and let the fact be adverted to that property is everywhere the subject of laws, rules, usages, and customs affecting it; that governments make laws, rules, and regulations concerning it; that they impose taxes or tribute on the subjects or their property for their own support and maintenance, and in this the support of their various establishments for the protection of their subjects, and executing justice, and other services of the state considered for the general good; which is but modifying the claim all have on the property in a

state for their exigencies, and made or exercised by the head or chief power of the society or state over which it rules or governs, or for which it makes regulations for its welfare. In a word, what is this but directing what shall be done for the common good or exigencies of all concerned in that state?

In shewing or explaining the right reserved generally by men to one another, in the grant or concession of property to one another, or that right to things which constitutes what is so termed, it is not to be understood that it is meant or implied, that the distressed portion of a community have claims on the other portion, without limit or rule; and this limit or rule is to be found in a requital for that they draw by labour or industry in their stations or callings; but this applies to the ordinary course or routine of society where there is no disturbance of the usual modes and habits of those employing, and the employed. But when a change takes place in the circumstances of a society, and cases of distress arise where labour and industry are unavailing, or do not, or cannot yield a return for the supply of the subjects depending on it, or through sudden and overwhelming calamity; and herein, where it is not in the power of those suffering to get a return in the common labour and commerce of society; here a right is saved to the sufferers, who have a claim on those who possess the means of relief. It is farthest from the argument of this work, or any intention in the argument, to advocate a claim for the idle or the

vagabond, or the criminal, who would live on the labour, and industry, and honest acquirements of the virtuous and wealthy; for the idle and refractory there is no hesitation in saying there is no respect advocated to these. And those in possession are doing a greater good generally in defending their property and riches, than in yielding to, or encouraging the idle, the profligate, and the robber, who by assailing or opposing other's good, in the rules of virtue necessary for the benefit of men, forfeit their claim on the obligations and duties of men, of respect and consideration of their good, and of kind and benevolent feelings. The cases here spoken to, are those where, in a community or state, the wants or calls of the subjects are just; and among those exigencies that may occur or arise, if a portion of the society are necessitated to claim relief, here those possessing the means to relieve are bound in duty to give up a portion beyond their wants, which their possession deprives or defeats another from having. The government, as directing the concerns of a state, must and does see and determine and adjust this. But in so doing, is the common claim of mankind reserved in the establishing or institution of property recognized? Charity, in this case, becomes a duty; and those suffering, have a just claim on those possessing the means for relieving them. But this, for the sake of peace and order in society, must be the subject of the rules and regulations of laws, and the subject of the means by which the peace and safety of society, and the good of mankind, generally, can be con-

ducted ; and which, here it may be remarked, constitutes the great difference between what is done by rule and order, or legitimately, and what is done by men of their own individual authority, and in wantonness, caprice, will, or dictation, or force or violence contrary to law. The one being the authority of the collective body represented by the government, or in the laws, usages, and customs established, known, and approved by them ; and thus conducted with order and rule, and agreeable to the modes in which society can be managed in peace and order, and justice administered, and generally, good or the benefit of men effected. While that of individual authority, or of individuals, as in mob, tumult, or individual discretionary power, not forming the mass or collective sense of the subjects, exposes society to contest and confusion, oppression, injustice, robbery, and plunder, and mankind live in anarchy, and in constant danger, contest, and alarm, and the good of mankind and civilization is defeated.

Again may it be observed, on property being the subject of a right reserved in respect of it by mankind generally, that if the possessor or proprietor of property had an absolute right in it to the fullest extent or abstract idea of that term, or to the fullest extent of absolute right or power, laws and restrictions would not apply to it ; for the right could not be said to be absolute in the strictest or abstract sense of the term absolute, where it is the subject of laws and restrictions. But all property is the subject of law and the government, or other moral power or authority ; and

if governments, or the powers imposing laws respecting property, had no right, then the imposing of laws, or taxations, or impositions on land, its produce, or any thing constituting property, would be a manifest wrong or injustice. Either, therefore, there must exist a right, or such authority to impose laws, or the imposing them would be wrong and unjust. No one will say that laws respecting property, for the good regulating it and managing it, directing its use and appropriation, and that are equally dealt out, (and which ever must be supposed, except where the contrary is shewn,) are wrong and unjust; and therefore it must be concluded that government, or such moral authorities by which they are imposed, have the right to do so. These laws, again, are varied and altered to suit and meet circumstances, and, so as always considering they are fairly and equally dealt out, they must be considered as being exercised by the right such authorities have, and this right is that reserved, to which allusion has been made in the grant or concession of all property.

Governments, moreover,—free governments, at least,—must ever be considered as the will of the people or subjects concerned, or the mass of that will or people, but concentrated in the form of government for the purpose of acting with power, order, and peace, and for the general good; and as such, the right possessed is literally the right reserved of one another, and exercised by them, by the act or through their organ of the government.

Hence it is considered that the right reserved

over property implied in the grant or concession of it, is traced in the exercise of the power which governments do exercise in all instances as to property, with respect to making laws and regulations, putting taxes or imposts on it for the state services and the good of the subjects at large, and directing the use and application of these.

Again, may it be observed while on this subject, that where possessions in land were large, and other things of which riches consisted were abundant, of what use could such be to the owner or proprietor, but for others to participate in the use of, through the requital or compensation for their labours and services? Without his property had relation to others as well as himself, how could he use or employ it, or take the benefit of it, unless he had the assistance of others and society to call for it, and through their means return him the benefit of it; or how could a man enjoy the benefit without others to constitute the means through which he would benefit by it? Without these means, property, be it land, or that derived from land, cattle, fruit, corn, or even gold itself, would lie waste and desert.

The man of large landed possessions could not till or cultivate his land without assistance; or obtain or receive the riches and benefit of the culture and management; or, again, enjoy those riches, the produce of it, without the labour or service of those who are necessary to produce the luxuries and blandishments of life he would expend it upon; and were he not to till or cultivate his land in exercise of the absolute right or power

he had, or might suppose he had, over his domains, then of what avail are his possessions? Is it meant that the grant and concession of his property should lie waste and useless, a wild or desert? This is absurd; because it is to suppose no use, or motive, or object of men in what they do, or claim, in respect to the constitution of property. But opposed to this, morals are in truth the creature of reason; they proceed from, are grounded, in fact exist, but in reason. The concession of property, then, must be for the object of its use, or power, or service, and its benefit in this is, the employment of men for the services or good to be rendered from or by it. Would it be reasonable, then, if the object is the use of it, the service and benefit of men, or what is good, that the owner or proprietor, in his supposed supremacy of absolute unreserved right, should, after cultivation, and the benefit he had received at another's hands, and in the things raised, that were but raised for some object, and some reasonable view or motive, turn round and say, "but you shall not partake of that property, not one bit of food you have raised, or timber fallen, or riches gathered from its bowels shall be yours; I will not sell or part with an atom of it all"; or that he would destroy it? But the absolute right would go to, or might be extended to this. And to say that such a case is extreme, and would and could never be exercised, is to say nothing, or what is not the fact; because many are the instances where men, standing on this supposed but mistaken absolute right, have in part exercised it,

and in their petty jurisdiction abused the power entrusted to them; and bad men may ever threaten to exercise this supposed power; and if the principle is admitted, who shall say the extent to which it might be practised? But the rule or position of absolute right would go to this, and in morals we must seek a rule or law agreeable or consistent with reason, and clear of all crudities that shall be inconsistent or contradictory; and where, if evil is practised, men in the abuse of their power shall not have the opportunity of being supported on grounds of supposed justice or supposed right.

Speaking on morals, it must be the endeavour to clear the system of absurdities and inconsistencies, and explain, or endeavour to do so, a rule or law of human action in this respect, free from matter that shall alloy and contaminate it, in powers or rights, or supposed rights, that shall defeat it in that which is its object or principle, of the benefit of man or what is good. To preserve the benefit of property, the very object of its grant or concession, and to requite the services of those at whose hands the owner or proprietor is benefited, in reason or common sense the right implied must exist to check and correct its misuse, or misapplication, or its perversion, or, generally speaking, its abuse: and such right is saved in the very principle or object of its concession, that of the benefit of man, or good: and morals consisting of that which is reasonable, that alone can be consistent with morals, and deemed moral, which shall be understood or soluble to the understandings of men; and such only can be the case with

the grant or concession of property, and in its constitution and establishment, that a right is reserved in men to one another in the grant or concession of the right which constitutes it.

The next thing is, to see how this general claim is exercised by law or governments; and the claims of all and every individual recognized, which it is considered they are, in the support and maintenance of government, or law, and by the contribution of the subjects to that support and maintenance of the government and law, and which measures or authorities are instituted for the benefit of the subjects at large, in the protection, the succour, and assistance they afford, and generally in the administration of the laws and justice. The claims, moreover, of individuals are specially recognized on those occasions where governments find it necessary to succour and assist them, in cases of distress or emergency that cannot otherwise be provided for; such as under circumstances of famine, desolation of war, pestilence, floods, tempests, convulsions of nature, as earthquakes. In all these cases governments usually do afford succour, shelter, and aid to the sufferers; at least a good government, which has the care and welfare of the subjects in view, and their (the subjects') claims at its hands, in its objects, its directions, and its dispensations; and such considerations had by governments are, as a principle, ever considered just, and approved by mankind, whatever difference of opinion may exist as to the mode and manner by which the consideration is had. It is nevertheless true, that it

may be possible to find many cases in history where protection and succour are not afforded to the subjects; but this must be attributed to failings of weakness, or judgement, as the principle is essential to government as the object of every government and every human institution must be based on the good in view. Where, then, the fatherly attention of government is wanting to its subjects, it must be attributed to weakness, or poverty, or causes it cannot see, or control, or provide against; but where a kind and good government is existing, there it will be seen that succour in cases of need is one of its first objects or duties. How many are the instances that history affords of governments sending money and food where famine occurs; the same where floods and tempests devastate the fields, and flocks, the produce of the land! Where convulsions of the earth or conflagrations occur, the offices of governments are shewn in providing means of shelter in tents, and provisions, as well as money, and means of livelihood for the sufferers until they can get their livelihood. So is protection afforded to mariners wrecked. How many instances may be seen by the acts of the government of this country in cases of distress, and famine, and tempest! The Chinese government, it is said, have always large stores and supplies of rice and grain laid up to provide against famine; but which, notwithstanding, more frequently occurs from the extreme population of some of the districts, or other causes, in that country than in any other. What, then, can be better proof of the fact of the claim of all,

and that the same is recognized, to that of which property consists, legitimately controlled? And in a populous, settled, and civilized state it cannot be otherwise, for the peace and welfare of mankind or society; and if it is not controlled by law, the state or nation where distress occurs are thrown into disorder, confusion, and contest. But in thinly peopled countries and produce to spare, the rites of hospitality are as sacred as the rights of property, beautifully and practically illustrating the judgment, and the implied good, of man.

What is the nature of the succours afforded on these occasions, but the admitted claim of the distressed, who are thrown out of the means of sustenance in their ordinary callings or employments, and for a time can find no means of support? The land, and property in every thing elsewhere, or within scope of their power to reach or obtain, is all occupied or engaged; but in right of the common claim of all, government raises on those who have redundance, and apportions, what shall be considered requisite for the relief of the distressed, until they are able again to find settlements, or employ, or the means of subsistence.

In this country, for the common and ordinary distress of individuals thrown out of employ through the incertitude of the extensive manufactories and commerce, and for the poor in general, provision is found by government in the poor laws. But besides these, on great and extraordinary occasions of distress, pecuniary aid and other assistance is afforded by the government in a more direct manner. Such are instanced on occasions of floods in the fen countries, and on

occasions of distress, not of very distant occurrence, among the lower orders in Ireland, by providing means of employment; but in this country, on occasions of extraordinary and great temporary distress, the sympathies and benevolence of its people often supersede the necessity of the government coming forward; and when it does, the private donations of individuals often vie with it, and in some cases are its rival. No better proof or evidence surely can be desired of the position of the general claim on property by mankind, and of its recognition by good government or law, and the world generally.

Now shall any one say that succour ought not, or shall not be afforded to the subjects of a state, who are industrious and well disposed, meeting with disasters that deprive them of shelter and subsistence, and means to provide for these; whose all is destroyed, and oftentimes for the service and benefit of the rest of society, whose property is saved or secured, and is abundant past all question of their own necessities? Such is the case of those suffering by war, or those whose estates or situation bear the brunt and effects of sea-storms, as in fenny and low countries. But without taking into the account the claims and services rendered in their sufferings to others in the state or society, shall any one say that such part of a society who suffer by dire and great causes, and also such as cannot find means of honest subsistence, shall not and ought not to be relieved by their government or the laws? On the contrary, will not every one say that government should take care of and provide for the

wants and necessities of its subjects, and where great and extraordinary causes bring distress and ruin, it should afford succour and relief; as also to the poor and starving for want of employ, or should find them employ that will support and maintain them? It is not conceived that any will deny these positions, as it is considered no one will say that those in distress should not have certain provision, but that they should be left to perish or starve, when famine, war, or pestilence, or tempest, or convulsions of nature overwhelm their resources, and they have no immediate means to relieve themselves by industry or virtuous means; neither that those who cannot obtain work, or employ, or means of subsistence should be destitute, or that such should perish for want.

When governments, careful of the interests of the state, and the peace, the welfare, and happiness of its people, see occasion for providing succour and relief, and afford it to their subjects in distress, either direct from the head, or through laws, such must be considered wise and prudent, and doing only what is right and just, and the duty of every protecting authority.

It is not conceived any one will say that those in distress from such causes as those, adverted to, or similar, ought not to be relieved. But it is considered every one will say it is right and proper that a good government should afford succour to its subjects thus circumstanced; and that it is just and proper to give such succour; and that it would be unjust and wrong not to give it.

If, then, it is just and proper that governments should take care of their subjects, and ought to afford them succour and relief when involved in calamities and distress of the nature alluded to, then it is evident that the subjects to whom it is granted or afforded have a claim or right on the land subject to the state or government; for they either must have such claim or right to sanction, or authorize, or to make it a just and proper act on the part of the government to distribute its revenues, levied on or contributed from the state at large, that is, from the subjects and their property, for the benefit and advantage of such distressed individuals. Or if they have no such claim or right, then government is taking the property of one part of the community, by the levies and contributions, to bestow on persons who have no claim, no right to consideration; and governments so applying the revenue would be guilty of improper and unjust applications of it; would, in fact, be taking from one without just authority, to bestow it on those who have no claim or right, and would be guilty of a mal-administration, and what would be the same as robbing one subject to serve and favour another. Now as no one can well say such distressed persons have no right to consideration, when it is right, and just, and proper for governments to give them the aid and succour they require, but, on the contrary, that it is just and right governments should give it, the latter position, that they, the distressed, have no claim or right on the property in the state or country they are the subjects of, is untenable, and

their common right and claim are therefore a necessary consequence.

But in further support of, or to exemplify further the right or claim contended for, let the opposite position be viewed ; and that such right or claim does not exist, or is untenable, or a false position, or is unjust ; and that governments have no right to assist the subjects under great and calamitous events, and that it is or would be unjust to do so. Would it not be a monstrous proposition that men pursued by calamity on one hand they cannot avoid or help, shall be destroyed by the denial or withholding of assistance from those who have been happy to be possessed of the more secure portions of a country, and of abundance, and more than they can consume, or make use of, or even manage, but must let waste and spoil ? That if tempest, flood, or war has destroyed the fields, the flocks, the corn, the stores of the once happy and industrious, or that the decayed or distressed labourer or artisan, whose services have contributed to enrich the wealthy, that the happy and affluent shall complete the calamity of those distressed by a cruel death, in starving them, by denying them food or shelter, is a position so monstrous that it must fail, and be rejected as bad in its deformity. A position so totally at variance with the motives and objects of society, and the establishment of property in the benefit of man or good, that either good or virtue, as the object of men, must be false, an error, or not a right or correct position, or the other must be abandoned, for they cannot exist together. That the one is

defeated or destroyed by its deformity or monstrosity, is evident; and that the other, based upon every right and good principle that moves or operates with men, must be esteemed to be right and correct, is most certain. Were it otherwise, governments must stagnate, or be of no avail for the good, in the general protection of persons and property, for dispensing justice to all, and measures for public benefit of all denominations must stop, for in these the claim of all is recognized, and are similar in claim to cases of partial calamity or distress; and these are all maintained and supported by the levy and contribution on the state, and the property in that state, for the benefit of all, and in which this right or claim is exercised, and is admitted, and acknowledged to be right and just by men, in all human institutions, and in all proceedings under them.

Public benefit may probably apparently be more derived from the laws or government, on occasions of civil dispute, or in criminal cases, but individuals under distress have the same claim to succour as those who may be the more commonly benefited by them in the more common occasion of public justice. But all society more or less benefit by government and laws, if not immediately, yet indirectly, by the protection of those in the state or society; the right and claim, therefore, of the whole society are recognized through the government or the laws in this general good or service; the support of which is derived from the contributions levied on all, for the support and maintenance of that constituted for the be-

ness of all in the government and laws, and therefore shews the right and claim of all on that which contributes to that support, as the land and property does. But a proposition that those suffering through calamities of nature, want, and misfortune, men in power and affluence should be justified in destroying, is monstrous; and as such cannot be supported or maintained by moral or reasonable man.

It is considered, that it may be an idea entertained by many, that although they may be disposed to admit that the distressed part of a community ought to be relieved, and many entertain high esteem with regard to the humanity and virtue of those affording relief, yet that such extends only to a claim on voluntary or gratuitous charity, or that it is optional with the powerful and affluent to relieve or not others in distress. But this is an anomalous notion, that in a work of science cannot be admitted. A claim on charity, in an eleemosynary sense, or free or voluntary gift, is a matter optional, and applies only to the feelings and kindness of men, and their free disposition to give; but a claim which is just to acknowledge, and unjust to refuse, is something more than what depends on free will and option. And to say, that such persons so distressed as alluded to, have a claim it is true, but only on the charity, and free or gratuitous gift of others, would not alter the case much from the last view in which it is placed. If such distressed persons had no claim on land, or property generally, then those in possession have a right to starve and

complete the destruction of those distressed, by withholding succour and nourishment ; for dependent on charity, although the affluent should be tender-hearted, and listen to distress, yet this being optional, the distressed would be left, in such charity and feeling, to the pure will and pleasure of those better off. To say, therefore, that the claim is admitted, but that it rests on voluntary charity, or on the free and gratuitous gift of others, is no more or less than to say, that such distressed objects as have been alluded to, may be starved at the option of those in possession of the means of affording relief. And although the charity of this country is its feature, than which nothing greater can adorn it, yet that cannot be left to option which has a just right and claim.

Amidst the shining virtue that blesses and adorns the character of an Englishman, there are churlish dispositions, and temporary (but transitory, we hope,) opinions may prevail regarding certain cases of distress, that places the subject of relief here in this country in too great incertitude to incline the advocate of system, and science, to compromise the principle that is advocated.

That which is a claim and right, which, it is hoped, has here been developed past any question or misapprehension, cannot be conceded into a dependence on the mere will and option of others. And after all, that it may be in the means of government or laws to accomplish to the relief of those distressed, to distress there will yet be numerous calls on the charity of men, and abund-

ance of opportunities for the well disposed and humane to practise benevolence.

It is conceived that it may be very probable, that men in general, in their considerations upon governments, and that the members of governments themselves, may not, and do not consider the principle of right here advocated to the extent it is carried ; for it is conceived, that it is very probable that governments occupied in the practical duties, or the administration to the many and difficult matters calling upon their attention, have the less opportunity of adverting to the principles upon which the calls and claims made upon them proceed, as knowledge in practice, generally speaking, may be said to precede knowledge of principle ; and in cases of distress, all wise and considerate men and governments seeing, and alive in their feelings to the sufferings of others, deem them right and fit objects for relief, and therefore afford relief, yet do not enter into the ground or principle morally, whence the distressed have a claim and right for a regard being had for their sufferings. Nor indeed do the sufferers, although in their want and misery, goaded to envy those men affluent and happy in the society, and in despair driven to unlawful acts, and to make depredations on the property of others, appear to consider their claim or right as a principle emanating from morals well considered and digested. Governments, although exercising the power of granting aid and relief to their subjects, in great and extraordinary cases of distress and destitution, it may be doubtful whether they consider the

right or authority they have to do so, in the claim or right of those relieved, as a recognised principle of human authority, or of moral origin in right and justice. The grant is made as an act of kind and liberal, or charitable condescension, and, may be, of political prudence, more than on the principle of duty of the government to protect and apportion the claim and right of the subject; and it would not create surprise if advocates in this liberal country were found to state, or maintain, that governments are not doing what is right or just when they administer thus from the substance of one portion of the community in the revenues, to the necessities of another portion; that it is unjust and wrong, and what, strictly speaking, is not justifiable. By many it may be looked upon but as a kind of charity raised and given through the hands of government, as the best and only means of settling how it shall be raised, and how applied, to the various and dispersed cases that may call for it, and that it is an act in which government is sanctioned by the general assent of those who are charitably and well disposed, still not recognising the claim or right in the subject at large. And though most people will say it is right and proper that governments should send relief to such portions of its subjects as are labouring under great and extraordinary distress and calamities, yet will justify the proceeding more on the ground as an act of charity or benevolence which governments should perform, and may justify it as a right in government as a dispensatory duty on this ground, rather than

as a duty owing to the subject in his rights and claims to such consideration, the result of the obligations and duties of men arising from the grant and concession, or admission of all men to one another, in respect of life, and their good generally, and in this to that which is deemed property, and through a right reserved or implied in the grant and concession of those things of which it is, or may be, constituted. Nor is it conceived, that the subject himself, generally speaking, has any other idea of the relief and succour he receives than as charity, and the condescending goodness of his benefactor ; and though he may now be told it is his claim or right, yet he is not to forget the respect due to the governing authorities, and the laws, and for their duties well and kindly performed. The constituted authorities are entitled to respect and esteem ; for while it is a duty on the one hand to regard others, those regarded owe a duty to respect and esteem those who have fulfilled their duties towards them ; for it is to be remembered, that no good or right is due but by the concession or grant of one to another. And though men may have a claim and right to consideration in this respect, of the subject under contemplation, namely, that of their distresses, yet that such claim or right exist but by grant or concession of one to another, and for the good received, respect and consideration result as a duty in return. And the withholding respect and consideration where respect or consideration is specially shewn or evinced, might with just reason be considered very questionable, whether

not only meriting censure or reproof, but whether a forfeiture of an equal consideration might not be just, and punishment might be regarded as due for such misbehaviour. A disposition is raised, under these reflections, to consider that a denial of justice in giving due respect and consideration to those worthily discharging their duties and trust, as fair matter to punish, or mark with signal disapprobation.

These observations are considered the more necessary, from the known assumption of men in the frailty of human nature, where the imagination runs to conceit on the subject of rights and claims, and which, it is conceived, arises from the error of men on the subject of a supposed and preconceived idea, that rights are pre-eminent, springing or arising from an inherent principle or quality, and not the subject of debt to, or obligation from, and to, one another; whereas, all right springs from the grant and concession of men, and men are bound in their respect and consideration, as their duty and obligation resulting as a return. But under the error of fancied or imagined rights being inherent, it cherishes an undue notion, and men are apt to set an undue value on their individual pre-eminence, (but not a higher esteem than right properly considered as a general boon deserves,) and become haughty, insolent, and ungrateful in their ignorance. It is, therefore, the more proper in promoting the rights and claims of men, to remind them of their duties in respect, and consideration, and gratitude, and thankfulness for good or benefit received, or rights

and claim respected. But if men who have a pre-conceived notion of rights being self-existing, or inherent, will take the trouble of thinking what rights are, in the substantive use or application of the term, they will find little rests with themselves, as individuals, as to right in, or to, any thing, but what is conceded for the general interests of mankind at large, or in society; and in reality, that it is nothing more than a grant or allowance from others, and for which they are bound in the moral obligations and duties in return, and for the observance of which their fellow-creatures have the most just demand on them, and their neglect in them justly renders them the subject of censure and punishment according to the degree of their misbehaviour, and as it may be adjudged in the views and estimations of their offended fellow-creatures.

What, then, is desired to be impressed on the attention, in promoting the principle of right, and claim of men to relief under distress, is, that the right is a matter of grant or concession, and men can have no rights but what subject them to the rights of others, and rendering them the subjects of the moral obligations and duties in the grant or concession of such rights, and which require the respect and consideration of others for the maintenance and preservation of the rights granted and conceded to one another. But men are not to suppose, that in the right or claim they have, it gives them a right or power to demand, or take of their own authority or will, that from others

which is necessary or is wanted for their relief when in distress, for such must be taken or received only through the channels, and by the rules, the institutions, or modes of society for such purposes; and by means which will conduce to the general benefit or good, or shall have that in its object, or by that rule or mode which shall be for the good or benefit of others, as well as themselves; and which shall not bring on, or create disorder or contest, which, if proceedings in this respect were left to individuals' judgement, their discretion, or will, would inevitably be the consequence. Governments, therefore, and the laws, are the proper sources or authorities to provide for these matters, both as expressing, or being the general sense or authority of the society, of the means by which these rights shall be respected and accomplished, and with peace and order, and the preservation of the general good and interests of society. Government will, therefore, regulate and administer to the rights and claims of the subjects in distress, and those receiving relief while under the obligation and duty for the concession of these rights and good, concede on their part, in the acquiescence to the rights of others in the general principle of the grant or concession of rights, that which raises or establishes their own right and claim, and places them in a situation entitled to rights, and respect, and consideration, in the obligations and duties raised in others towards them; and they cease thus to be creatures of the mere suffrages of charity, as of optional gratuity, or

mere creatures of existence at the will of the rest of society more prosperous and affluent than themselves.

But whether the principle of right, or claim of the distressed, be considered or not by others, if it is a right and just principle, in a discussion of moral rules and principles, or the rules men have to direct them, in so chief and important a matter as property, it becomes proper to set it forth, and shew the reason or ground on which it rests. And to establish so important a principle as this, is a matter of high moment to governments, that they may know on what foundation the right which is exercised to relieve the subject under the circumstances alluded to stands, and equally important to the subject, to know on what his just claim and right exists, and that those on whom aid and the means of relief are levied, may be the more prepared, and satisfied with the contributions levied on them, and the justice and propriety of the measure, and with the distribution of such levies among the poor and distressed. Governments will be enabled more certainly, and with less hesitation, to grant aid where cases require it, and the subject be comforted in knowing where to look for aid and succour in such distress or dire emergencies, without the precariousness and humiliation of alms or charity, and being his due without degradation. And should the government and laws fail in affording relief, the distressed can then only look up to charity; and which the liberal and humane feelings raised, cherished, and inculcated by the better science of morality

or humanity, will be not the less chary or disposed to bestow.

No better opportunity will occur than the present stage this work is brought to, of adverting to the poor laws of this country. The poor laws of this country, it is well known, have some adversaries, and these among the most enlightened of the society, and who do not yield in kindness of feeling, and liberality of sentiment, to any, but yet doubt the right, doubt the feeling, doubt the real humanity, and even assert the injustice of them, as being but a kind of attachment of the property of one man to serve another, or seizing the property of the rich to serve the poor. On the argument before adduced, it is conceived such ideas and position are untenable and vanish, and that with due consideration and reflection by those who are adverse, on what has been adduced, and all their bearings, they will be disposed to hesitate on such opinions, and will adopt notions and feelings more in community with the notions and feelings of their fellow-creatures, and agreeable to the interests of, and the justice due to, mankind.

It is conceived, the errors of those opposed to the system are founded on the fascinations of property free and exclusive of all interference, and the erroneous notions of rights from the schools, who would make property belong to men as individuals in their own right, without the concession of others, forgetting, that in the rights and liberties of individuals so adduced, the tendency to exclusion and tyranny over the rest of mankind not

in possession of the superabundant wealth of the monied man, or great landed proprietor. The spirit of selfishness, (used in the exclusive sense of this term,) is the root and spring of this doctrine. The good and benefit of mankind, however derived from universal concession, and the moral obligations and duties men are laid under, will, if not presently, in the course of time dissipate such erroneous ideas. The rights and liberties of the subject, in the confined ideas just alluded to, is here applied exclusively to themselves, as possessors; the proud right deludes their imagination; and the patriot and advocate of freedom forgets, while he talks of liberty and rights, he excludes it to all but himself. For what else is it than this, when the right and liberty over his own wealth and possessions are maintained as a right to withhold the pittance of existence to the starving multitude. The delusion, however, is too agreeable to the exclusive feelings of human nature, not to deceive the ablest and best informed, and highest talented in society; but let the hope be cherished that the labour and perseverance of the humble moralist may be successful in explaining the nature of morals, and in this, the nature of property in regard to what it is founded upon and rests, and that the subject will be placed in its true light before all, to be comprehensible by all, and that hence such erroneous ideas may vanish.

Whatever might have been the original occasion for enacting the poor laws, or the particular objects or cases they were designed originally to meet or provide for, is no subject of inquiry of

this work. Here is only occasion to advert to the principle acknowledged in *practice*, of taking care of the poor, the disabled, and the destitute ; and in this, it is contended, the common claim and right reserved to the subjects at large in concession over property, of whatever it may consist, is realized, modified by rules and laws, it is true, as it ever must be, to be a good ; and as laws and regulations must be made for men in their conduct, for what they shall do, and what they shall not do, for any practicable good to be obtained in society. Neither is it the business here to enter upon the particular rules or regulations prescribed by the poor laws, or their sufficiency to answer their purpose, whether the best or most prudent measures are provided. It is here only necessary to notice the principle recognised, of the right and claim of mankind over property, and in this, of the common poor and destitute to be provided for practically, in the measure of the poor laws of this country.

The important principle in morals; of the claim of the whole society in property having been considered, it will be proper to consider farther, what are the rules, or means, that offer themselves to decide or know what shall constitute that right or claim to them, esteemed as property in individuals, or to whom of the society, or to what persons, the right or claim to the things constituting it, or of which it consists, shall particularly belong ; for the direction in what is so considered as right in individuals to property, or as to that of which it consists ; and also what may be proper in

laws and regulations respecting property, for the purposes or objects of its constitution, or apparently is so, for the effecting of the great moral object of the benefit of man, or what is good; and which may be verified from what may be found or collected from the usages, customs, or laws held or maintained generally among mankind respecting it.

In directing the inquiries to what are the rules or means of directing men in what shall be considered as property, and the laws, rules, and regulations respecting it, in a general point of view, reference must be made to the general rules found to exist respecting it, and to those modes, or regulations, or laws, that apparently will best promote its object.

In doing this, the chief and universal rule, or law, or means of deciding of what is or shall be considered as property, is that of possession. This is apparently the first, chief, and principal means of deciding the right, or what laws confirm as property, or to whom the right to the things constituting property, or of which it consists, belong. Perhaps the means of deciding right in things, or property in them, may all be resolved into possession. That possession is a means, is confirmed by the usages, customs, or practices, or forms, or laws, in existence among all mankind. Possession may, it is conceived, be considered as the chief and principal means of determining right, or deciding property; but this must be understood, supposing it not wrongfully or unjustly obtained, but is acquired by the rules or form

which are sanctioned by the laws, customs, or usages respecting property, wherever it may exist, being observed or conformed to. Possession of itself, however, may be considered as the ostensible means of deciding to whom the property belongs, or the right in things of which property consists, or what may constitute it, or is granted, or conceded, in the estimation of men generally; and the acquirement thus obtained, will be considered as just and lawful, until the fact of the contrary is shewn.

It is said that possession is considered as the rule or means of determining right or property in things, and that all means, perhaps, are resolvable into possession. This is said, because acquirement by any means, by labour, art, or ingenuity, or any industry of men, implies possession; and gift, grant, barter, and exchange likewise implies possession in the parties to the sale or transposition, in the owner or claimant of the things bartered or exchanged, and which means of acquirement is the result of, or arise from possession; being as it were its children, proceeding from the possession in the person of the party giving, granting, selling or exchanging.

Possession, in a general sense, is of itself very undefined, and very different in different things to which it relates, in regard to the things constituting property as to what they may consist of; but it is a term, nevertheless, that almost every one in society, and in the habits of the practice or intercourse of life, or of commerce or barter of any kind, will comprehend. It will, however, in

the exhibitions of the means of deciding the right to property by possession be explained, or the matter of possession be brought more particularly into view.

That possession is principally the means of settling or determining the rights in property, or to whom it belongs, is evident, in that tracts of land, or countries, or islands, in the occupation of different individuals, people, or nations, the possession is, according to the general law pervading all mankind of grant or concession, and the laws of nations observed or recognized, and the usages or customs found among men, considered as giving a preference to those in whose occupation or possession such land may be ; and is a ground of exclusion of others, and whose wanton invasion or interference without consent, is considered a trespass, or an act of aggression, or injustice, and such is repelled or resisted, if in the power of the possessors to do so. The laws of nations springing from the laws or rights, as understood between man and man, and the usages and customs of men, then sanction the right to the land, in those who originally possess it, or do so prior to those who would invade them, and are considered as determining the right.

By possession, a prior and undisputed possession is alluded to, and that which is not disputed or questioned by another, who has been driven from it, or dispossessed by unjust means ; and it is further evident, in all laws giving right to individuals in societies or communities, who are in possession, in preference to all others, except where

wrongfully acquired, or contrary to what is considered just or lawful : and until the possession is shewn to be wrongfully acquired, such as through fraud, or violence, or contrary to the acknowledged rules of justice and lawful means, the law gives the right to the possessor. Thus, if a man is in possession or occupation of a house, it is presumed to be his under the right given by law to possession ; so if lands used, cultivated, or managed, and the profits taken of it, or other acts of possession done or shewn by any man, the law gives the right to the person under whose care and management it is used and cultivated. And if a man holds under another, and pays rent, or acknowledges tenure, or seignory, by paying rent or tribute, the possession of rent or tribute is held to be, or admitted, is the right to the land of the chief or superior who receives it, although the intermediate possession, or under-holding, may be in the occupant managing, using, or taking the produce of the land. So of herds and flocks, or goods, or wares, or merchandize, under whose ever care these are, as to the possession of the benefit, the law gives the right, where no other claimants are known or appear, although there may be many besides the possessor, where such things may be. So of game, or the wild beasts or creatures of the chase, either birds, or beasts, or fishes, creatures of the wilds, the forests, or the waters, taken, caught, or killed, it gives the right to the taker, and him in possession.

What may be considered as marks, signs or evidence of possession, may be of various nature, as

any arbitrary rule, sign, or form, or act known or agreed upon, or declared by law as a means or rule of denoting possession ; and so as it is known as a rule to be observed by all where set up, and as a law or rule for all, no matter of injustice can be complained of. Such as if a man be required to mark his possession by a form of entering upon his land, taking up a turf, entering a house and taking the key, and putting every body out of the house ; or if he shall be required to set up bounds or marks on his land, or put his mark on all his property. Such are mere rules or forms to mark or indicate possession, or of the things belonging to them whose mark they bear, or denoting of possession has been made, and when known as laws, or rules, are as fair for one as another. But it may be observed, to prevent mistake, that such are not matters which of themselves constitute right to the things, but as they may be laws, or by the agreement, grant, or concession of men, of right to the things, so marked, or denoted as property. There may be that, likewise, which may be considered as natural or incidental marks of possession, or right of possession. Which are in lands, such as territories of a people, that which is used or occupied by a nation or people in a rude state by their hunting excursions, or in which they drive or depasture their cattle, and have been in the habit of using, and known as such. Such, as states or territories of more settled or civilized people, are known by natural bounds or marks, such as mountains, rivers, lakes or marshes, swamps or seas. Almost every

nation or people, or even districts of the same country, have some peculiar forms, marks, laws, rules, usages or customs in adoption, or known, as marking or denoting property. It is, perhaps not material to enter on this subject, of what are the marks of possession, such a well known and common subject as it must be in every instance of practical life, but they are mentioned or alluded to, as subjects necessary for the attention of men, and as concerning their conduct or morals.

In this subject of property, there are some matters which might be questioned as being made that subject of right which constitutes things property; such as original inventions, improvements, and the products of knowledge and study, edited in letters, or books, or forms, making distinct and specific works. In such matters, what are called in this country patent-rights, and copy-rights, may be given, or granted, or established by laws; but as such might be prejudicial to society at large, if too great reserve was made or given to inventors, or authors, the grants of rights are usually limited to the duration of a life, or lives, or a competent number of years: and it is reasonable to do so, to reward or encourage merit, and to benefit society in judicious encouragement; and without such preference or advantage as right gives, or is rendered by giving rights, such matters depending merely on knowledge, the moment they were developed or made known, would be as open and common to all, or the same thing, a subject to the powers and interference

of all society, to imitate, sell, or make profit by, or advantage; and the real benefactor would have no requital, or even a return or compensation for his labour, and costs bestowed on his productions. Many, also, may be the occasions for raising property out of that already constituted in a state, in regard to land, or its value in money, and which may therefore be a matter fit to allude to, or bring to the attention of men on the subject of morals. Such as public services either generally or locally; and what may be wanted for the use of the public, is constituted as property for such purpose; and right is given to persons or authorities, or a common right reserved to the public at large, or certain bodies or portions of the society, to that which is so constituted as property. These cases are instanced in this country, in the appropriation of land for public uses, houses and buildings for Government, courts of law, magistrates' courts, public companies, wharfs, ports, rivers, roads, and places reserved or set apart for public recreation, and air and exercise, medicinal springs and waters, and for various services and occasions. Such appropriation may also extend to particular subjects, apparently appurtenant to private property; such as particular mines, ores, or precious stones, and even to certain creatures, or animals, in birds, beasts, or fish. In these latter subjects, of those that are kept or preserved as state property, it may be assumed judicious appropriations may be made for the sake of the science and knowledge of nature, and in

or humanity, will be not the less chary or disposed to bestow.

No better opportunity will occur than the present stage this work is brought to, of adverting to the poor laws of this country. The poor laws of this country, it is well known, have some adversaries, and these among the most enlightened of the society, and who do not yield in kindness of feeling, and liberality of sentiment, to any, but yet doubt the right, doubt the feeling, doubt the real humanity, and even assert the injustice of them, as being but a kind of attachment of the property of one man to serve another, or seizing the property of the rich to serve the poor. On the argument before adduced, it is conceived such ideas and position are untenable and vanish, and that with due consideration and reflection by those who are adverse, on what has been adduced, and all their bearings, they will be disposed to hesitate on such opinions, and will adopt notions and feelings more in community with the notions and feelings of their fellow-creatures, and agreeable to the interests of, and the justice due to, mankind.

It is conceived, the errors of those opposed to the system are founded on the fascinations of property free and exclusive of all interference, and the erroneous notions of rights from the schools, who would make property belong to men as individuals in their own right, without the concession of others, forgetting, that in the rights and liberties of individuals so adduced, the tendency to exclusion and tyranny over the rest of mankind not

in possession of the superabundant wealth of the monied man, or great landed proprietor. The spirit of selfishness, (used in the exclusive sense of this term,) is the root and spring of this doctrine. The good and benefit of mankind, however derived from universal concession, and the moral obligations and duties men are laid under, will, if not presently, in the course of time dissipate such erroneous ideas. The rights and liberties of the subject, in the confined ideas just alluded to, is here applied exclusively to themselves, as possessors; the proud right deludes their imagination; and the patriot and advocate of freedom forgets, while he talks of liberty and rights, he excludes it to all but himself. For what else is it than this, when the right and liberty over his own wealth and possessions are maintained as a right to withhold the pittance of existence to the starving multitude. The delusion, however, is too agreeable to the exclusive feelings of human nature, not to deceive the ablest and best informed, and highest talented in society; but let the hope be cherished that the labour and perseverance of the humble moralist may be successful in explaining the nature of morals, and in this, the nature of property in regard to what it is founded upon and rests, and that the subject will be placed in its true light before all, to be comprehensible by all, and that hence such erroneous ideas may vanish.

Whatever might have been the original occasion for enacting the poor laws, or the particular objects or cases they were designed originally to meet or provide for, is no subject of inquiry of

which could not be the case without barter and exchange and power of disposition. So likewise will the giving the proprietor or owners of land the disposition over it at their decease, encourage their interest in it to improve it, and take care of it for those they have an interest or regard for, and were desirous of benefiting, as well as meet the common object of settling the means or way of disposing of it, when the existing proprietor or owner shall by his death cease to have occasion for it. As to the produce of land, the nature of this implies barter and commerce, otherwise there is no need to raise, make or promote such, more than the possessor himself requires for his wants or necessities of life, and the object of property would be defeated without it. Any limits, therefore, to free barter and exchange, unless where local benefits, or particular objects require to be promoted, or evils opposed, and which may form exceptions, and of these the law and government must adjust, settle, and prescribe, would be opposed to and inconsistent with the very object of property. These then are matters for direction in the law of property, which, to be in conformity with, should be constituted with power in the owner or proprietor to sell and dispose of it; and the laws of this country in this respect, meet the subject very effectively, as to land giving it to the children or relations, heirs of the owners, if not disposed of, but at the same time power to the owner to dispose of as he likes. The laws of this country also meet the disposal of other things, not consisting of land or the perpetuity in it, as well

as the laws respecting land do the disposition of that as respects the fee or perpetuity. The laws of this country in these respects are agreeable to these matters that offer themselves for direction, in laws respecting property, as to the power of barter, sale, commerce, and general disposition vested in the owner. It may be further observed, that property in land being the subject of barter and commerce, is proper on moral considerations, not only for the encouragement it gives to industry and exertion, to obtain the means of purchase; or of becoming possessed of land, and the benefit resulting from it, but as a wholesome means to prevent its too great concentration or accumulation in few, or one individual; who, however subject to law as to any evil use made of it, or arising from it, or abuse of power, yet which certainly would not be so well calculated for the benefit of society, and by which contrast, competition, example, and various other circumstances which tend to the improvement of property and the benefit of mankind, would be much impeded if not precluded. Besides which, however requisite the restriction of the power and interference of men with one another as to property, which restriction, therefore, is necessary to be imposed in constituting rights and property, yet it cannot be supposed men are willing to agree to a total exclusion or restriction of themselves, from the acquisition of land and other property in general, by fair and honest means; but which, if property must abide in one person or one class, exclusive of others, they on whose grant right in a measure

is dependent on, would themselves be precluded from it. And it is not reasonable to suppose that men should be thus precluded, which would be a subjection that was partial, and which no one considering their claim to justice would be willing to admit. On this ground above all others it would appear reasonable that property should be open to the free mart, and obtainable by all who had the means of fairly purchasing or becoming the possessor of it ; and as a general rule it would be as unjust, as it would be impolitic, were it otherwise.

In concluding this part of the subject it is considered proper to call the attention to the ideas or notions that are apt to arise in the mind, of the absolute right or dominion of the possessor, owner, or proprietor over his property. From what has been said, however the fondness or partiality to this notion may arise, or exist, or be cherished, it is evident no such right can rationally or lawfully exist, or be consistent with justice ; and if such does, it must be under mistaken notions, or usurped power, if practised. In the grant or concession of property, or that right which constitutes it, admitted or acceded to by men, it would be absurd and inconsistent, built or founded as that concession is on morals and in them the object they have in view of the benefit of men or good ; and under law or government it would be equally absurd or inconsistent, their purpose being to effect the end and object of morals through their power and authority of control and direction where requisite, and their foundation or rule

by which they are directed, being the same universal law or principle of morals, and which governs all things moral or human, that of the human benefit or good.

The right given or vested in men to the things of which property consists, is a limited right or power, as well as is the power and interference of men, restricted or limited in the constitution of property, or grant, or concession of right.

But it is an universal observation, that nothing is more delightful to conceive, or more apt to mislead mankind, than power; and in the possession of property, and the power men have in that possession, nothing appears more grateful, before the subject is duly weighed and explained, than the idea that they may dispose of it, and do with it as they like; and so much dominion as apparently at first sight a man has over his property, is calculated to betray men into the idea of absolute sovereignty over that which they possess. A very plain reflection will, it is considered, satisfy men that such idea or notion as absolute right, or power, is mistaken, and cannot be correct.

Of life and property, although the former cannot be said to be of much account without the latter, and however essential to it as the latter is, yet of the two life must be ever considered as the prior in esteem, as it is to every thing else. Property is but as secondary to life, and is constituted but for its preservation, comfort, and better enjoyment. Life, and all its concomitants of person, action, and mind, are the subject of limit, restraint, and control, or regulation, as regards so-

ciety, and those composing it, for the respect and consideration of others and their interests, not to hurt or injure them, but even to the performance of duties for their service, succour, and benefit. And if life, the subject of first concern and interest, is not the subject of the absolute will, rule, or disposal of the possessor, but subservient in great measure to the calls and claims of society, is it reasonable to suppose that, that which is made and constituted but for that which created it, or called it into existence, shall be more the subject of absolute power or disposal, or will, or command of its possessor, than man, his life, and benefit for which it is made, and but for which only is it known? The absurdity of supposing that the proprietor or possessor of property shall have more absolute dominion or power over that which is constituted for his life, than he has over that life itself, is an absurdity so great and palpable, that it must or ought to satisfy every one that the idea or notion is the creature of error, or mistake, not properly considering the subject, and therefore not having acquired correct and right notions of it in this respect.

In the course of shewing that absolute power over property does not, or cannot rationally and legally exist, the same, or similar observations and arguments will necessarily be repeated, which have been used to shew the right and claim of society reserved in the grant or concession of property. The two positions of the right or claim of society reserved in property, and that of right being limited and not absolute, are so nearly allied,

that they might almost be considered the same; but as there is some difference, and as the claims of society are so important to it, while absolute right or power is so much the idea and desire of the individual, it has been considered proper to consider them separately, and under distinct heads.

The whole of society have rights reserved in property, or in things of which grant and concession is made which constitute it, and governments exercise that right for the good of society, over all property; and subject to such power, control, or regulation, the power of the individual or individuals possessing it cannot be said to be absolute.

The constitution or establishment of property is founded on moral good; and the right or power over things of which property consists, given or granted for that good to those who possess it, and in preference to others, is, it is considered, nothing more, and nothing more is given by such grant of right in the things of which it consists, than a right or power over them freed and discharged of the common power and interference of others, and to restrict or prevent such others interfering or intermeddling with the things of which property consists, and to preserve the use, management, and benefit in the possessor, free from the interference or power as such others might like or wish to do with it at their will and pleasure; and the power given to the possessor, and taken away or restricted in the others of society, is limited or modified by rules, or laws, usages, or customs. But such right in the pos-

essor over his property is not thereby freed from the power and interference of others, governed or restricted by law, or the requisite considerations to be had for constituting property ; or, in other words, such right in the possessor is not freed from a right reserved in the society, resting with the government or law to exercise, for furthering the object of its constitution, and which rules every thing human in the moral good.

The right or claim, then, given in property to the possessor, is nothing more than the use, management of it, and the benefit to be derived in it, free of the power and interference of others unrestrained, but subject to that power limited ; or a right reserved as far as respects the general good, or the principle that rules every thing human, of moral good : and the possessor is only let in, to have the immediate advantage, benefit, and use of that which his property consists, in preference to and with a certain exclusion of others ; and no other right is given but the withholding the common power and interference of others of society. Is it reasonable, therefore, that if the power and interference of others are restricted in property, for the purposes of moral good, that the possessors' right and claim shall be unlimited ? Would it not be, in fact, most absurd and unreasonable of all things, to suppose, or hold, that while all other men's power and interference are withheld and restricted in a measure, to give the possessor a greater privileged power or right, the possessor alone shall have an unlimited or absolute right or power over things of which

his property consists? There is no denying this inconsistency, and what is the fact, but at direct variance with such idea; for all property, however those interested, or through whimsical caprice may choose to deny it, is the subject of laws, or restrictions; and of rights or claims exercised over it by the laws and governments; except where a power or right is usurped, to the malversation of all right and justice. But as that which is promoted here is that which is founded but on reasonable grounds, and what is governed by or can be comprehended by the rational powers, or within the rational comprehension of men, and what is properly moral, what is reasonable must be that rested upon here, and it would be waste of time to consider such exceptions. In brief, in every state of man, be it in civilized or uncivilized states, property will be found to be the subject of laws, or rules, and restrictions, or, what amounts to the same thing, the subject of customs or usage. The power, therefore, over it is not absolute, for laws, usages, or customs are matters imposed by the power of others, or society; and these will be found generally considerate of the benefit of men, or good: or these laws or customs will be found to originate in this principle, however insufficient or ineffective for the object whence they originate; for defects may arise from various causes;—in the want of knowledge, or ignorance in the science of law and polity, or through tyranny, or oppression of usurped power. But however insufficient or ineffective, or abused the laws may be in this respect, there rests with the government of all

states, or in the will of the society in the most rude state of men, the power of redress and alteration to meet the objects of society, or that will be for the benefit of men : but in every view shewing that property is the subject of law or rule, and that in no instance can it be considered as the subject of the absolute will or control of the possessor.

But let a view be taken of the extent or nature of the right or claim to things of which property may consist that the possessor has, and it will be seen, in the nature of the constitution or establishment of all property in land, as well as in other things, that it is only given with limits, and is subject to control ; and that the right, or claim, or authority the possessor may have in his property, or the things of which it may consist, is in fact but a circumscribed and limited power, however absolute it may appear.

Of the things of which property consists, the possessor has a right, or claim, or power over and in preference to and in exclusion of others ; and this extends, as to land, to the management, and cultivation, and direction of its use and application, and the advantage of the produce arising from it ; in the first instance, immediately for his own use, and next the advantage to be derived from it if sold ; and as to other things, as to wares or merchandize, or what is produced by his art, or labour, or ingenuity, of the advantage or benefit resulting from that, in the first instance for his own use, and next the benefit to be derived if sold ; and if his property is consisting in money, then of the

things to be purchased or obtained, or private benefit or use to be made of it. But what absolute and exclusive right or claim of all the right or claim, or of all power and interference, of others, or society, this gives, does not appear; nor does this give the possessor free and absolute power more than in the use, and management, and immediate benefit or advantage to be derived from that. The utmost extent is the possession, use, and management, and benefit to be derived immediately by the possessor. This includes the disposal of his property in certain ways, or to a certain extent, but governed or regulated by the laws of the society where it is, and the usages and customs in this respect; and also subject to the laws that may be made respecting it, and in this the calls of government at all times, for the uses and necessities of the state, and of the society at large.

But it may be supposed, that constituting of property gives an absolute and unlimited right or power over it, so that the possessor may do with it what he likes; so that he may destroy it, or render it useless, or after using it so far as satisfying his own mere wants or necessities, he may let it lie waste and useless. Thus he might suppose he may let his lands go uncultivated, his herds and flocks go wild, or may destroy them, or may destroy his corn, or not dispose of it, his cattle, his stores, or burn or destroy his woods, or cut them down, and let them lie and rot, or otherwise render all these, or whatever his property might consist of, useless. That such a right is

given to the possessor over his property, however for want of control, or usurped power he may choose to act in this respect, or abuse his power or his goods, is denied ; and such notion of right is falsified by the principle or reason of the foundation or ground on which property is raised or created, namely, that of the moral good to be derived, or resulting from it. The constituting of property, or the giving of a right or claim to things, with powers over them, and to the exclusion of others, may have the appearance of giving such right or power. And if it were not, as has before been observed, that in all property a reserved right was implied, of the rights and claims of the society, then might a man indeed waste and destroy his property as he chose, and possess such absolute and unlimited dominion over it, which, as has been alluded to, may be supposed by some. But although such power might be supposed to exist in appearance, yet, on due reflection, it never can be admitted. Through the laxity or insufficiency of laws, the opportunity of abuse may occur, or by tyranny or oppression where there was no control or coercive means to prevent it, such power might be exercised, yet the same might be said of men doing any other wrong, or base act, because they had power to act, and a right conceded to them over their actions, and the opportunity occurred, either for want of power to prevent it, or through tyranny, or violence of the perpetrator of any atrocious deed. But it is the right that is contended for here ; and in all reasonable views of the case, it

is clear, no such right of absolute power, in the abstract sense of that term, is given to the possessor over his property. And in the judgement that would be passed on such abuse of property as alluded to, were it done through the opportunity, the possessor had to do so, or wrongful exercise of power, would it, by its condemnation, shew the act as wrong, and the odium that was due to the possessor would be attached to him accordingly. It is contended, therefore, that the right given to the possessor of his property is not absolute. A man, moreover, can rest the origin or foundation of right but upon the grant or concession of men; and they would not hold that such power was given, as their judgement of the exercise of such power, if abused, would prove by their condemning it; and the confirmation or grant of the right by government or law, denies it, by the subjection of it to laws or rules, and the exercise of such power and controul over it, and that for the benefit of or service of the state, or all useful and good purposes, and by the principle of moral good, which is the principle that rules the proceedings of such, being the object to obtain which, all government and law is founded, as well as property; as every thing moral, or proceeding from man, of necessity must be, however mistaken or abused. To say that the possessor of property had a right to abuse it, and wantonly waste and destroy it, or render it useless, would be similar to say, that a man, because he had power to wrong, injure, defraud, or to oppress and slay mankind, had a right to do so; for it

would amount to the same in effect, if the possessor of his property had an absolute right over it, as in effect his abuse of it would be to deprive, defraud, and starve those of society who might want or depend upon it; and the principle or doctrine, as monstrous, refutes itself in reason.

The leaving or confiding the use and management of property with the possessor, may induce the supposition that has been noticed; and where great possessions in land are accumulated in an individual, or a few individuals, and the wants of society, owing to a scantiness of population where such property is locally situated, does not, or has not called the whole of a man's estate into use or cultivation, and does not immediately call for culture, an appearance is certainly rendered of wasting property, or what is nearly tantamount, of letting it remain useless. But if there was a call or necessity for bringing this land into use or cultivation, no doubt, did the owner neglect it, that government would be fully justified, on the ground of the claims of society, and of the calls of the state and its emergencies, and of the universal law ruling over every thing moral, and the object and end for which that property was constituted, to exercise authority over it for such purpose, and call it into use for the service and benefit of mankind. So, if men possessed great stores of goods and merchandize, or of food in corn or cattle, or had amassed great riches in money, would the possessor withhold these from use, or destroy them; the moral good, but for which they are constituted property, would justify

a government preventing their abuse, and to cause them to be brought into use if wanted. And the fact is evinced in every instance of the levies and contributions, taxes and subsidies, raised and imposed by governments and laws.

Did a man destroy his property wantonly and wilfully, where it was not wanted, instead of promoting the increase or wealth of his country and its people, the folly of the act would be the punishment. But were the things so destroyed of public use and need, it is conceived his conduct is a fit and just subject for the cognizance of government, where it was known and thought of importance sufficient to visit it, or interfere. And the rule of doing so would be, the public claim to justice, or that of society for a public wrong, similar with the destruction by one individual of property belonging to another individual. Let it be borne in mind, that property is constituted as good, and the individuals possessing it have only the power and privilege over it they have on the ground or reason of better managing it, and making it productive and useful, more so than if the stock was left open to the power and interference of all. Now, therefore, it would be most absurd to say, that the object of all others for which property was created or established, shall not govern it, or be of any consideration; and that the motive of making it shall cease to weigh with men, the moment any man who possesses it chooses to defeat it; or at the time when the object or motive of its establishment specially calls it into use, or for the exercise of its services to

further its object, that it shall be destroyed or withheld. It is considered, therefore, that when property is perverted or abused, when wanted for those claims the government or law shall consider fit and just to promote, it is the subject of interference of government to render it, or place it in its right channel or course, for the purposes for which it was established. The right is derived but by the restriction, limit, or control of the power and interference all possess, and but for the services to be rendered by exclusion of them, but this only a limited exclusion, and to prevent the evil and mischief an indiscriminate use and exercise of the powers and interference all possess. This limit is settled and adjusted by governments, laws, usages and customs, for the peace, order, and that the good of all may be the better promoted. And the fact of the interference and authority of government and law, upon all occasions, over property, and for the exigencies and service of the state proves the position, that men possessing property, have no right granted them, or is any claim existing in the constitution of it, to pervert or abuse it. Power is given over things of which property may consist, without specially defining its extent or particulars, it is true in many cases ; and in the grant or concession of men of rights morally, or in morals, no declared limit of action, or duties, or obligations, are made ; but such are not, therefore, unlimited, or without rule, for it is implied in the judgement of men, of what they consider right or wrong morally, and that men are bound by the principle of moral good, and go-

vernment and law are founded for this object. And where no special limit or rule is given, still the great and ruling principle is the guide or limit; and the possessors of property shall be responsible for the wanton and wilful perversion of it, or its abuse, to the society they wrong or injure by it.

Special rules or laws are meant for the better guidance and direction of men, however short of the purpose for which they are made, but they never supersede the principle or original law on which they are founded; and in the rule prescribed, should that rule be deficient in every other instance, the law of moral good governs, and is the rule of human action; and by that, men, as possessors of property, and their property, are ruled, and judged, and to which they all are therefore the subject.

Power, then, may be given over property, without specially defining the extent or limit of that power, the same as over human actions in general; but it cannot be said, therefore, because no limit is declared or stated, that the power is necessarily unlimited, for where no limit is declared, there the law or rule of moral good is implied; and whatever is consonant with that, is the rule or guide of men, and the rule of judging them. And if a man has the property of a whole country given or invested on him, or acquired by him, that therefore he may starve the rest of society, by refusing to dispose of its produce, or by destroying it, or letting his land lie waste, is so directly opposed to the moral good, that there can be no

doubt in the perversion or abuse of that intrusted to him, and for which he shall be compelled by the government or law to answer for.

It may be supposed, that too much has been entered upon here, that more properly may belong to the consideration of Law; but considering the nature of property, in its great concern and importance to man, and its common relation to human actions or morals, it is hoped the reader has not been troubled with more than is sufficient to convey a general knowledge of that nature, especially as to its foundation, or ground, or reason upon which it rests, and to shew that most important quality of it, that the establishing of property, or giving that right over things which constitutes it, does not annihilate the rights granted and conceded morally by men to one another of their good, which would be the case were the right or property absolute; and that the restriction of the power and interference of men, in order to establish it, or give that power over things necessary to constitute property, is nothing more than a regulation or limitation of the power and interference possessed by all, so that the benefit to be derived from the earth, and of all its products, and of human art, labour, and intelligence, may be obtained, and the good of man be effected. But it has been considered necessary, in doing this, to meet the common supposition, arising, no doubt, from the native current of pride and selfishness, ever arising in the constitution in the too great desire of power and possession, the failings, in short, of the moral nature

of man, which are to be met and corrected by the moral qualities of man in his discernment, judgement, and reason : and which suppositions or ideas will ever be liable to arise, that of property being the absolute right of the possessor, and with that notion that he may act, and do just as he chooses in regard to it, even to its utter destruction and abuse, and consequent injury to man, and therefore specially to shew, that no such power, or rightful power, does exist, has it been the labour and endeavour in this part of the discourse to explain and exhibit ; and that if such right or power does exist in appearance, or is practised, it has no foundation or sanction in morality, or in the proper use or sense of morals, and such must reign only by force or violence, or usurped power or right, and oppression.

The object, in this respect, has been to shew, that there is an implied claim on property by all, and that such is evident in the very nature of its foundation and constitution, and in all practice and power exercised in respect of it by government and law, and the moral judgement in regard to it, and of human actions concerning it ; and by thus explaining and exhibiting its nature, to convey a true and correct acquaintance or knowledge of it to men for their better direction and judgement in regard to it in this respect, where men are liable to be misled or fall into error, or mistaken notions or ideas, and to the end of giving information to men for the general and universal object of morals, or the good of mankind.

It only remains here to observe, that it may be

apprehended, that by this acknowledgement of the right or claim of men generally over property, and by the acts or exercise of the right or power by a government and laws, that no possessor or proprietor would be safe in the enjoyment of his estate, or what he earned by his labours, or expected in return for labour and service, and the benefit of improvements rendered to others and society; and that a power or right, such as has been promulged and maintained, being reserved in society, and existing in governments and law to exercise, might be made the pretext of the greatest injustice and tyranny, and endanger all property. And it might be asked, what boon would there be in property, if the possessor, after all his pains and labour, and good rendered, might have it taken from him, to supply the wants and misfortunes of others, possibly worthless and base objects, and the industrious and honest proprietor be left to pine in misery and want? This question has been raised in order to shew, that no such evil as the disregard of, or want of security of the possessors in their property is to be apprehended in the doctrine of recognizing the claims of society on property. To satisfy the possessor of property on this head, let it be called to mind that those things of which property consists, or that of which property is constituted, is, unless limited or restricted, open to the power and interference of all; and that government, and law, and usages, and customs sanction the moral rights which impose those restrictions, and limit, and controul for the purpose of constituting it, and the

objects to be obtained by it. Governments, therefore, could not well forget the means to be provided for and taken care of, to establish and promote property, by the limiting and restricting the general or common power and interference of the society, or the individuals composing it, to secure this; and would avoid the throwing down the ground and foundation on which property rests in the moral grant and concession of rights, or dissolving the restrictions and limit of this common power and interference of men with one another, and rendering every thing unsettled, open to confusion and contest. It cannot then, on serious consideration, be imagined that government or law, which establishes property or confirms it, to prevent the evils that would arise from the power and interference of men uncontrouled, would do that which its business and object is to prevent or defeat. A wise and good government considering this, and acting on the principle on which itself rests, or is founded, and is its object to promote, namely, the good, would be careful of substituting its own interference or power in a manner to disturb and interrupt the repose, and quiet, and safe enjoyment of property, by intruding on the labours and industry of men, and the benefits resulting from giving rights over things and constituting property. The possession of the owner or proprietor over his property would constitute, therefore, the ground of respect, or what was to be regarded as that not to be invaded or disturbed, although subject to the laws respecting it, and to the levies, taxes, or subsidies, the society them-

selves deemed requisite and approved by the consent to the measures of their government, or their laws; as the consent of society must be considered to be given in the support and sanction of existing governments, and as all acts of government lawfully promoted by them must be considered as the will and voice of the subjects at large.

If governments and laws do not take care of the protection and safety of property, or abuse their powers, or their trust, this is not to be charged to the principle or foundation on which property rests, or as an evil in the law or principle of the right being reserved of all men or society to property: but to the weakness and fallibilities of men and all human matters. The rule or principle is right as founded on reason, to the best consideration that can be had of it as stated here. The rest must be left to men themselves, their discernment, and their virtue, and the forces or means by which all human affairs are to be effected, where individual efforts cannot avail; as in men collectively, and their power or force represented in governments, and their laws, and in their usages, customs, and habits, and public opinion, that are in fact the force and power of the whole society in what thus has their approbation and adoption. Is it not enough to the owner or proprietor of property that he shall have possession, and the management, direction, and controul of his property, and the benefit to be derived from that immediate power and authority; and the while he does not wantonly and wilfully pervert or abuse it: but that he must look to the total exclusion of all right and claim

of others, and their utter deprivation or destitution; the utter deprivation of others at whose hands he receives his rights and property, by their moral grant or concession; and that he shall only be content by a power as unjust as it is unnatural and inhuman, in the power, or claim, or right to destroy, or render property useless, or of no avail, and in fact, by that means, to destroy or render miserable his fellow-creatures, under a right or power, at his will or option to exercise? A doctrine founded on such ideas or notions of absolute right cannot be admitted in morals, and that alone which is comprehensible to reason can be received and admitted; and all ideas or notions monstrous to his reason must be rejected by moral, reflecting, and reasonable man, as inconsistent and absurd, and therefore not moral in the proper use and application of that term.

THE CONSIDERATION

OF

RIGHTS

IN RELATION TO GOVERNMENT AND LAW.

THE next and last subject proposed for consideration is that of government or law. In treating of government or law, they will both be considered together, in regard that both may be considered as one and the same authority, requiring men's duty and obedience to them for the good resulting, or the benefit of men. Law proceeds from government, but government itself is law. The chief law, governing, directing, and giving laws for the rule, order, and direction of the society or subjects of the government.

Speaking, therefore, of government and law here as the same, in respect of the benefit to be derived, and the obedience and duty of men as subjects, they will both be considered here under the term law; that being the more preferable term, as not applying to persons, or invidiously to any government, as reference to governments might appear to do, and which, in the frequent use of the term that will be necessarily made here, might invidiously be construed to do, by the illiberal

and others not well disposed towards their governments and laws. But the subject is here only referred to generally; and no government, and no law or laws are particularly alluded to or meant, but in the way of a general discourse on the subject, and as a matter of philosophical disquisition; the work having the professed object of science alone. The term "law" will therefore be used throughout in reference to the authority and rule which men as subjects are required to obey for the peace, order, and regulation of society.

Law is considered in respect of men's duty and obedience to it as morals, being for the good or benefit of men; and as that duty, being morality. But under the head of law, the nature and form or constitution of it, or of its constituted authority, or the wisdom, or efficiency of its minor branches, in the civil directions, institutions, or laws, as they may exist, or be found to be in any state, or place, or country, will not be entered upon or discussed; for although law is unquestionably a moral matter or subject, as proceeding from man, it notwithstanding forms a separate branch or subject of itself of morals, which may be designated by the term "polity"; and which is not the subject matter of consideration here. And neither will be spoken of men in their collective or constituent character as to law or its authority, but merely of men as subjects.

Having premised thus, to give a defined idea of the subject matter of discussion in this work, and that free from politics or political discussion, and to prevent men mistaking and confounding or

mixing the subjects of polity and morality, in their considerations of morals, as alluding to men as individuals in their conduct or actions, it will be observed, that by law, those powers and authorities are alluded to by which men are governed, ruled, ordered, and controlled, or their actions directed or regulated, and human institutions for such objects; the obedience to which is required of them, and in default of which they incur the penalty of disobedience or neglect, and are punished or held to be punishable, or otherwise held responsible to the power of the law for their obedience. In what is meant as law may be included the rules, or laws, or customs of uncivilized men, as savages, wild tribes, or nations, and wherein the culture of morals or humanity appears not to have been contemplated, or little or no progress has been made in it as a science; but whose laws, rules, usages, habits, and customs serve to regulate or govern them, similarly as the laws, or rules, or edicts more formally enacted or set forth in more refined or civilized states, or any settled or fixed institution or authority of law.

On the moral necessity of law, it is to be observed, that it is necessary for the preservation of peace and order, and the security of men in society, especially in the protection of the weak against the strong, the just against the unjust; protection also against foreign enemies, the prevention and punishing of crime, and generally for the ordering, and directing, and promoting of good, and the happiness of mankind.

Such is the good of law, or its object and utility,

and which it is necessary for, and which cannot be had and maintained without it. And for the support and maintenance of law, it requires the respect and obedience of men; and this respect and obedience are held as the first duty, or of the greatest obligation upon men as subjects; or, in other words, the authority of law is considered as pre-eminent, or superior to every other authority of men; and necessarily so, for were other matters, their own opinions, interests, or regards, or the commands, orders, or directions of others, or of individuals, not forming or being law, nor having authority as such, suffered to interfere with or oppose the law, such would be superseded, and must cease or be inefficient; and hence it is that men are required and held bound to submit to and obey the law in preference to all other things, their own opinions, regards, affections, interests, or welfare, or those of others interfering with or opposing them. Such is the nature of law, being instituted for the benefit of men, that requires or calls for the respect or consideration of men, and the regard of men to law is considered moral, and contempt, lawlessness, and disobedience as immoral.

Law, in a general view or consideration, although it may be viewed as a subject of moral fabric, or the institution of men, is in many instances a matter of such remote origin, and always of such power and authority, and men, commonly speaking, as subjects, have so little the power or means of interference or control with it, the establishment, or any thing further than in their alle-

giance and duty of obedience to support and maintain it, that it would appear a vain matter to talk of the grant or concession of men, of law to each other, however the consent, agreement, and adherence of men to law, and their esteem and adherence to law, are or may be considered proofs of grant or concession, or of that moral acquiescence, consent, and agreement of the society, that is its support and maintenance. But although it would or might be vain and useless to draw men's attention to any idea of good they receive at each other's hands, through their being accessory means of law, or of constituting law for one another's good; yet some comprehension may be had of what good it is that men are indebted to each other in respect of law, or under law, in the consideration of what is in the power of men to grant or concede to each other in respect of law, and to consider each other as entitled to the benefits of good derived from law, in protection and justice, and participation of the benefit and good derivable from or under law; and in these respects, men considering each other entitled to a participation of the good derivable from law, and as a matter of right and justice, grant and concede to one another their right to their good under or derivable from the law of which they are the subjects. And under the grant and concession of men to one another of each other's rights in this respect, it is apprehended that it may be fairly considered that men do grant and concede to one another a right to the good to be derived under or from law; and their estimation that it is just and proper they

should participate in this good or benefit, and unjust and wrong where it is denied them, or they do not receive the benefit, that men as subjects may be considered as and actually beholden to one another for their rights to the good, or a participation of the good or benefit to be derived from law. And hence will arise from such rights granted, the obligations and duties of men to each other, for the support and maintenance of the law, for sustaining and promoting their rights to the benefit and good, by their allegiance and obedience to law in this respect; and therefore have men a claim on each other, and hold each other bound to one another as an obligation or duty, to maintain and support the law, or, in other words, to their allegiance and obedience to it. And thus it is found, all men estimating one another by their conduct in regard to law, as to their allegiance or obedience, whether morally right or wrong, and approving the support and adherence to the law, and obedience to it, and condemning the lawless, the disobedient, and contumelious.

And here it may be proper to observe, whatever sentiments, opinions, or disposition men entertain towards the law to which they are subject or are affected by, yet it is undoubtedly the interest of all men, on due reflection, and of moral or good habit and disposition or esteem, the having and the supporting and maintaining of law for the protection and benefit it affords, and generally for the good resulting from such power and authority.

It will be an observation obviously made, that

law does not always fulfil or effect the object for which it is instituted or made, and on the contrary, that the law has been known to be, and may be tyrannical and oppressive, and that instead of protection, is the cause of oppression, distress, and misery to man ; and that the law is sometimes partial and unjust, and executed badly, and made the means of oppression and injustice, and often may be impolitic, unwise, and inefficient, and do more harm than the good professed, or it is intended to effect.

With the object of promoting good and repressing evil, and with the best intentions, there cannot be any denial but that the law does not always succeed in the object for which it is instituted, and fails in the object and utility for which it is erected and made ; and contrary to the promoting or effecting of good, is the occasion of much evil, and oppression, and human misery, and does not produce the good intended by it. Law is, like every thing of moral nature, liable to error and failings, mistakes, mismanagement, and abuse. But men are not to reject that which is requisite and proper, because it is liable to be abused, or to be made productive of harm. Nor can law be objected to because it is liable to errors, failings, and abuse, and rendered hurtful. Law is considered for the good which it is necessary for, and for which it cannot be dispensed with, whatever failings and abuse it may be open to, which must be lamented, as such diminish or detract from the good, but it is always desirable and urgent on

the power and authority of law, that grievances, whenever and wherever they arise, should be corrected.

In the work here undertaken, law can only be viewed for the import or object of its constitution, in the protection, care, and benefit of the subjects and their rights, and generally the good for which it is instituted ; and which is, and can only be effected through the means of such institution, by the power and authority it possesses ; which must be considered that of the society, or of the people or the subjects collectively, and of which it is in fact and effect the power and representative by its existence, and the subjects' consent and voice it must always be considered to have in that existence. To enter into defects or failings of law which have existed, or may arise, is not the province of this work, but that of legislation and polity. Admitting there may be failings, and noticing that there may be such, that it may not be supposed the position stated as to the good of the law, is built on a blind case, on the supposition that law is of necessity good and moral, and therefore to be espoused and supported when it may have many deficiencies in this respect ; for aware of such, the subject of law is adverted to for the good and service of man, notwithstanding its defects, and for which good it is an absolute measure of necessity ; and for the general import of good, and for which it is indispensable to man.

Although it is not the business of this work to enter into the failings or defects of the law which may be found to exist, it will nevertheless be a

matter connected and of import with the subject of morals, to advert to those failings or defects which may exist in the law, to see and explain in what way they affect or concern moral rights, and the moral obligations and duties of men, and in what way law, and the moral rights and obligations are to be viewed in this respect; and, consequently, that morals are to be explained with reference to law in those matters that may be at variance, or opposed to rights, and the moral obligations and duties.

On the question that evil may arise or result under the law, or in its management and dispensations, an obvious matter offers for consideration, that is, as to men being bound or understood to be required to obey law where such evil may exist; or in those cases which may be opposed to what are the moral rights of men, and the moral obligations and duties would otherwise require of men, or which, but for the obedience due to the law, it were the duty or obligation of men, as a moral matter, not to do, but avoid, or even oppose and prevent. Men, as subjects of the law, in their obedience to it, may be committing the evil, or if not actually committing such, yet in their aid or support, or in any manner contributing aid or support, or by any act or thing done for the service of the law, may be said to be assisting in and participating in the evil (if any) arising from the law. It is proposed, therefore, to proceed to the consideration of the respect and obedience of men to law in those cases which are of themselves not strictly morally right or good, or in matters

opposed or adverse to rights, and consequently to the moral obligations and duties of men, but for the obedience due to law ; and how far, therefore, men's conduct can be considered as moral when so acting, or aiding in what otherwise may not be moral, or right, or just, and how in duty men are bound or can be required to do those things, or aid in such matters that may in themselves be immoral, through this respect or obedience which is required of men to law.

That cases of this conflicting nature should arise or exist, must always be a subject of the most sincere lamentation, and of the most painful and afflicting nature, between the imperative duty of obedience to the law, and the moral obligations or duties of men towards each other separate from their duty of obedience to law, or where they do not interfere to oppose otherwise what would be the moral obligations and duties of men.

The consideration to be taken here is, that where men are constrained by the law to do that which may be opposed to or at variance with their moral duties, but for the obedience required to the law, and which men would not and ought not otherwise to do, but for the imperative duty of the law. That while they must deprecate such departure from what is morally right and good, and the necessity of that departure, as between men, and the act is bad, or the result of the act, or the matter done or brought to pass is in itself wrong and improper ; yet the act, while wrong in itself separated from the duty of obedience to the law, is moral as a matter of duty or obedience to

the law, and, therefore, though men must deprecate the act, simply considered as moral, they are bound to do it, and must esteem it as moral in the complex consideration of it in respect of the duty or obedience to the law : and the case or situation of the subject is that of having to act or choose between two evils, that of disobedience to the law, or committing an act which is wrong, or opposed to the rights of men and his moral duties otherwise than for the necessity of that obedience ; and as in such case the subject has no alternative, and the law is the greater moral obligation, he is perforce of that greater duty constrained to obey that, and avoid the greater offence or evil of disobedience to the law, by committing what must be considered as the lesser evil or offence of the act of moral wrong or evil done in that obedience, and may be opposed to otherwise his moral obligations or duties ; or what, if independent of that law, he would be constrained to observe, and would be required of him by the moral obligations and duties of men.

The case must be considered, therefore, as it is, in the light of a man placed where he must act or choose between two evils, and the wrong or evil done in the act required of him by the law, less than the evil of his disobedience to the law, and between the two he is required to do the lesser and avoid the greater evil or wrong. The only way in which a case of this nature admits of explanation is under the necessity of the act, as it must be considered the authority of the law over the subject to be, that is, the authority is imperative in

respect of the subject's obedience, or otherwise in disobedience the law ceases to exist in all moral or reasonable view ; and while the act done cannot be admired or esteemed, but be lamented, and even deplored oftentimes in the severity of its effects, yet as his duty, the agent shall be considered moral, and exculpated from the evil he inflicts in such obedience. This appears the way in which the point admits of explanation ; and though it were to be lamented in the course of human affairs and transactions, that such cases should arise, men have only to adopt that mode of explanation which the case admits ; which is by viewing it as a choice between two evils, or, as it is commonly termed in a man's own concerns, a choice of difficulties ; and the least is approved and adopted as the right mode, and thence considered as conformable to his moral obligations or duties ; but in no other sense but of necessity can it be considered as a duty binding on man, or superseding what his moral obligations or duties would otherwise require of him or enjoin him to do. And the act, as a measure of need, and for which cause alone he is bound to obey by the imperative necessity of obedience to the law, he in himself is exculpated of all blame or harm which may attach to the act or measure he is so compelled to perform or observe.

A distinction is to be noticed here between what may be imposed on the subject by law, and what may be imposed on him by oppression or coercive force not of lawful authority ; as the threat of persons without authority, robbers, or

miscreants imposing oaths, or extorting promises to do wrong, such having no authority that can be recognized as of right or justice, he is bound to resist, and oppose, and evade, by all means in his power, not at variance or opposed to his moral obligations or duties. Neither is a man to confound his own necessities with those of lawful authority, his own necessities being those which are required to give way to, or are circumscribed by his moral obligations or duties. Having made these remarks, it will be proper to proceed to the further explanation or consideration of the case where men may be constrained to do what is opposed to the moral obligations of men, or their duties as respects each other, otherwise than for their obedience to law.

On this question it must again be observed, that law is necessary for the peace and order, and the general good and happiness of mankind, and for which it cannot be dispensed with. But it cannot be supposed that law shall be free from all evil or wrong to men ; such is the fallibility of all moral concerns, that it is impossible in human affairs to provide so that no evil or injustice shall not occasionally occur under law, whatever may be the good derived from it, and however necessary it is generally for the human welfare, and that through error, or from ignorance, or from vice, or from abuse of power, it shall not be the occasion of some wrong or evil arising from, or existing under law, however well disposed the authorities may be who have the instituting law, and the direction or the execution of it. These are failings to

which law, as a human fabric, must ever be liable, and men in consequence be the subject of them ; yet law must be considered in the main for the good it is of, as such necessary for men, and for this main or general good, and the necessity of it for this, men must look up to it ; and as calling for their respect and obedience, and the maintenance of it, and as the duty of men to do so for each other's good.

These failings, these errors, and even vices and evil in law, where its power and authority are abused, that may happen, however they alloy the good, and as blemishes and defects are to be lamented, and ought to be redressed and remedied on the part of the law as they occur, or as they are found or discovered to exist, on all occasions where it is possible, are yet, it must be considered on a general principle, as of a minor consideration as compared to the good in the law, or resulting from it, and for which good it is essential, and that individuals therefore as subjects must submit to, both as agents and sufferers, and as such evil may chance to happen when their obedience or respect to law require it ; and were it not so, and that individuals as subjects should submit on occasions of such failings occurring, they would be opposed to the power and authority of the law, and as such it could not exist, and the benefit of the power and authority of it over men for peace and order, and the good of men, generally, could not be maintained in society were this the case. Therefore, as a general rule, it must be premised that men as subjects must submit to law, notwithstanding

ing the failings, the errors, and abuse of it, and partial evils and mischiefs occurring, or that may be unavoidably committed, or suffered, or endured in consequence. So far, at least, considering here but the duty of men as subjects in their conduct or actions as the subject of morality, it must, as a general principle, be considered that men must submit to the law for the general good, notwithstanding its failings or abuse. The partial evils and mischief resulting from such must be considered as, or may be classed as minor evils, as matters that cannot be regarded in competition with the good of law, and the greater evil avoided or prevented for the want of it; and in consequence as men as subjects of the law on a general principle, as they cannot do otherwise than submit to it, they cannot as subjects be held responsible or amenable for any failings or abuse of the law, or the evils or mischief the consequence of it, and which, through the obedience and respect of it required of men as subjects, they may be aiding or contributing to, or be participating in.

The greater moral duty of obedience to the law thus absorbs all lesser considerations or duties that stand in the way, and otherwise ought to be observed by men, and men cannot, therefore, be held as responsible for such lesser duty which may stand in the way of the greater duty, (and which lesser must therefore be omitted, or the evil accrue of disobedience,) in order to perform or fulfil the greater duty, and indispensable for the benefit and happiness of men, as law is.

But these further observations may be made to

explain the subject of the duty to the law where it may be opposed to the moral rights and the obligations and duties, that it can be considered as doing so only in particular cases, or instances, and not in the general conduct of men, which otherwise is the subject of the moral obligations and duties.

It may be true that law may not always be consonant to moral rights in particular cases or instances, although law is founded in morals, and constituted for that end in the protection of moral rights and justice, and designing to promote what is good; yet it is the duty of men, as the higher duty, to obey the law, even though opposed to moral rights and the obligations and duties of men in such particular cases or instances. It is the higher duty the obedience to the law, on account of the necessity for that obedience for the support and maintenance of the law, and for the greater good, as it must be held to be, to men generally; and for the greater good generally of men, the particular cases or instances of morals must be considered as a lesser good, where the duties or obedience to the law are opposed to them; and men in this view are in obedience to the law doing a greater good generally as concerns men, than if the good were done in the particular cases of morals departed from or omitted, where the duty required of them to law is opposed to or interferes to prevent their regarding their duties in the particular cases; or in other words, men avoid the greater evil of their disobedience to the law, than the evil is which they may commit in the

particular cases or instances of moral rights they infringe, or in respect of which they deviate from their moral obligations and duties where opposed to the duty of obedience to the law ; and therefore, in a general view of the question, taking into consideration the greater good in law for the necessities of mankind, and the good in the particular case or instance opposed by it, it may be said it becomes the moral duty of men their obedience to law ; although viewed in the particular cases or instances of morals departed from, it is not moral in a particular view of the case in those cases in which the departure or omission occurs.

At all events, should this explanation not be clear to every one, the imperative duty of obedience to law existing for the general good in the peace and order of society demands, on the part of the subject his respect, before the particular case of rights and his moral obligations or duties, which must be sacrificed or give way in order to obey the law where that is required.

The cases in which men are required to disregard rights, and depart from otherwise their moral obligations or duties, by the superior duty to law, forms or may be viewed as an exception to the moral good, in the particular instances where the duty to law is opposed to such: but in no case can men suppose themselves free of the moral obligations, because a deviation may be occasionally necessary in the obedience to law ; for such deviation is only required as a matter of necessity for a greater or more essential duty or good resulting, and indispensable to men in law ; and for

the more general good, as opposed to the infraction of morals or breach of duty in a lesser good of the particular instances in which the duty to law is opposed to them : and the moral obligations and duties of men remain and exist, except in those particulars and instances, where controuled by the superior duty to law.

That such is the fact, that the moral obligations or duties of men or what men would be required to do, in obedience to them in particular cases or instances, give way to or must be sacrificed ; and yet men are held bound by them otherwise, and that where men are compelled in such instances to depart from a moral course, or what would be otherwise required of them under the obedience required of them to law ; is known to or must be apparent to all men upon reflection, when they consider how all men are aware of the necessity of their obedience to law, and that what they do, or may be compelled to do under its authority, or to observe as the rules and directions of law or ordinances of the law, although seeing they are opposed to morals in particular cases, and which might be regarded but for such obedience, and lamenting their inability in consequence to act rightly in these particular cases, and the evil effects and consequences direct or resulting, or the sacrifice of the right course in such particular cases from such obedience required of them ; yet from which they cannot deviate, at the same time they both see and know they are bound by their moral obligations or duties to do good and not disregard the moral rights of men, and shall be and are adjudged and held re-

sponsible for their actions accordingly on every occasion, where the duty required by the obedience to law does not require the contrary, or a deviation; and where it does, that what they shall do or may be compelled to do under its authority, or to observe as the rules and directions of law or its ordinances, although aware they are opposed to morals in such particular cases or instances, yet at the same time acting under such compulsion not holding themselves, neither held by others as responsible for the partial evil done or good omitted in consequence.

It is true this confiction between the good of obedience to the law and the partial evil occasionally done in consequence of such obedience required must have its limit: but this is a case of excess of evil in the law counteracting the good and benefit of it, which will be adverted to hereafter. But here the ordinary rule for the duty of men as subjects is only spoken of, and the weighing or considering law only for the general import of good to men, although a partial evil may be experienced.

That evil or mischief may arise or result in law, there can be no denial.—They may be occasioned by various circumstances, ignorance, want of foresight, and judgment, the mistakes and errors of men, and by the abuse of the power or authority committed to men as governors, or legislators, or by those who may have the administration or execution of the law.

As one of the greatest evils, may be brought in evidence the case of unjust wars, which should,

happily for mankind, there be no practical illustration in their own lives, history will always afford abundance of testimony.—Measures also of policy of the law may be unjust. And law of itself and civil institutions under it may not always be strictly consonant with moral justice, and the good or benefit of men in the rights of the individuals affected, and consequently not morally right or just; and all which matters and circumstances will interfere with the moral obligations and duties. Again, taxations, imposts, and duties to support unjust wars, or unjust measures, are alike unjust, and involve those who contribute to them with those by whom they are imposed and the purposes to which they are applied. Taxations and imposts again, in themselves may be partial, oppressive, and the mode of levying them cruel, severe, and hurtful, and unnecessarily so, or without occasion. Again, law may be partial or unjust, and better modes might be adopted than can be practised under the obedience required by the laws or edicts of the law, that may be. Judgments and decrees of law, or those who administer them, and those who execute them, again, may be wrong or in error, and even improperly and unjustly administered, all which things are wrong, improper, prejudicial to men and morals.

Better modes of acting, and that shall be practicable, than what law may admit, or the obedience and respect that are required of men for the existence and support of law will allow of, might oftentimes, perhaps, be adopted and pursued.

Therefore it must be considered that in all these

cases or instances alluded to as morally wrong, improper, and evil, and that in a moral point of view ought not to be ; and were it not for the obedience required of men to the law forbids it, the evils might be corrected or might be avoided ; but yet that being the law and cases in which the obedience of men as subjects are positively required of them, cannot be avoided, or corrected, or altered by the individuals or subjects of a state, from that respect and obedience necessary for the subject to shew or bear towards the law, for its preservation, and the greater and general good of such institution and authority over men.

In these or such like cases, as alluded to, the individuals or members of a state, or society, where unjust wars or measures of policy or edicts of law, or bad or unjust rules or institutions under it, and partial and oppressive taxations, and bad and erroneous administration of law and justice exist, are all partaking in these evils or mischiefs of the law, and contributing towards their support in maintaining or supporting the law, or the acts and proceedings under its authority, and the subjects in partaking any benefit under the law wherein the evils exist, or supporting the law where they exist, are participating in the acts or measures of the law ; and often are the individuals not only partaking of the benefits, if any do result from the acts of injustice, wrong, or oppression, but moreover may often in obedience to, and execution of the orders, measures, edicts, or decrees of the law, be actually committing the deeds or acts of injustice, evil, and immorality.

Such being evil and injustice, and things that ought to be and might be avoided, but for the duty and obedience to law, are opposed to morals and the moral obligations and duties of men, in the particular cases or instances where they occur; and yet men, in such obedience which is required of them, are necessitated to conform to, and do or commit them and be participators with the law. And it is apprehended these acts, or evils, or what may be morally wrong or unjust, committed in obedience to law, cannot, be called otherwise than by their proper name, or be justified (otherwise than by the primary necessity of obedience,) because they are evils, and that otherwise than may be required in the obedience of men, can and might be avoided, being opposed to his moral obligations and duties, but for such obedience of imperative necessity for the subject's duty to the law, for its maintenance and preservation.

That evil may occur, as has been alluded to, and is unavoidable on the part of men committing or participating in it, it may be observed that the opposing of the measures of the law in war, be it just or not, or not paying taxes, or not taking and performing any personal duty, labour, or service imposed on the subjects that fell to their lot under cases of war, matter not how unjust, could not be allowed of or maintained as right in the subject; or frustrating the carrying into effect judicial decrees, or opposing the execution of law, or the rules or regulations of the law required to be observed, could never be admitted as right in practice, or allowed or maintained as such. Were

these things allowed, or law opposed by the subjects, every subject might oppose the state, its rules, and minor laws, and edicts, and no law, it is evident, could be maintained. As a general rule, therefore, it must be held that the obedience of men to the law is a duty, notwithstanding the evil that may casually or partially be done and experienced, through the instrumentality of such obedience; and the obedience to the law in these cases, in a general view, becomes a moral duty or good on the part of men as the subjects, as the greater evil in the disobedience of the law is avoided by it, than the evil done or sustained in the particular instance or case in consequence of that obedience. But the subjects thus acting in obedience to law are held exculpate from the evils committed, or for the breach of moral duty in the particular case or instance, and shall be considered free of all moral culpability, which otherwise, but for the obedience required of him to the law, would attach to them. Thus a subject pays a tax to support the law when involved in an unjust war, or for the support or administration of a partial or oppressive edict, decree, or minor laws; or a subject is compelled to render his personal service or duty in war as a soldier, or any soldier by profession of arms to undertake and carry into effect the orders of his government, and the war that may have been unjustly waged; a judge and officer in duty executes the partial or oppressive law, or the officer in duty has to execute a mistaken or erroneous decree or judgment. So an advocate at the law also, on the same ground of general duty is held bound to

sustain the case of his client, however base or iniquitous, and even to assist in the defence of perpetrators of base and horrible crimes and enormities, all of them offences against the moral rights. Yet all these persons, so circumstanced and bound by their duties, shall not be deemed chargeable or culpable for the evil, the injustice, or the crime, or otherwise breach of moral duty in the particular cases or instances ; for the soldier who shall carry into effect the orders of the law, or of its officers in wars with all its horrors ; or a common subject called on to perform a like duty under compulsory law for a like purpose, as well as doing any other acts of necessary violence for the state, in their duty and office ; a judge, a magistrate, or officer of the law performing their duty under bad or injurious civil orders, or institutions, or minor laws, or mistaken construction of such, and the advocate defending his client, shall all be exempt from the charge of moral turpitude or injustice, or the evil that may be done ; and on the other hand all these individuals in themselves, shall be in what proceeds from themselves, where free of the compulsory duty to the law or duty to the state, adjudged and esteemed, as to moral conduct, by their moral duties and obligations, where free of such partial invasions by the laws, or errors or failings of the law where opposed to them. And such men, although acting under the compulsory authority of the law, in matters opposed to moral good in such particular cases or instances, may at the same time preserve and retain a just and moral character. Brilliant examples of such are every

where to be found amidst every, the most vicious states of law and society not excepted ; and endless it is to be hoped such examples may be, if not rendered undistinguishable by the greater development of moral improvement. Such considerations are to be had of men, as has been before observed, on the ground of the necessity there is in the superior duty to the law, to all other duties or claims upon men ; and, therefore, men shall be exempt or exculpate from all evils and mischief that shall ensue such obedience, and shall not be held to be answerable or inculpated in the act thus forced upon them. And were this obedience not so superiorly imperative on men, but that they, as subjects, were at liberty to oppose the edicts or orders of a state or the laws, or the forms and regulations instituted for the peace and order of the society and general service, then, as before observed, on every occasion men might object to the law, or the rules and orders of the law, all law must cease, an evil greater than all others that can befall man. As the necessity of imposing what is to be obeyed must rest or be intrusted with the power of the law, and the duty of obedience to it is above all other moral duties, so with its commands the state takes all the culpability, all its failings, its errors, and its vices, and in exculpation of the subject ; who, in this case, has only obedience and respect to direct him. And were it otherwise than that men, as individuals, shall not be responsible for the ills or wrongs, or immoral matters that may arise, or be done under the obedience required of them to the law,

and which cannot be avoided in respect of that obedience required of them, the first magistrates and officers of state, legislators, ministers, judges, warriors; and every officer and servant of the state, including all the citizens and subjects whatever, would be inculpated in the evil resulting from the orders or edicts of law, its civil institutions, rules, and minor laws, carrying them into effect, following or practising them, or under which any evil or immorality resulted. All would be tainted alike, with the evil and moral mischief, or other immorality that accrued under or resulted from law, or its effects or defects, by the aid, support, or contribution they gave, as well by any act personally performed or effected, or in any way that indirectly assisted, aided, or contributed in any manner to the support, maintenance, or aid of a state, under which any evil or mischief existed or proceeded. But the contrary is the fact, and men, notwithstanding any wrong, any evils, or errors of law, and to which men, as the subjects, may be contributing, aiding, or assisting, or actually committing in the obedience required of them, are not held responsible for such, and, in themselves, may be perfectly upright and just, and estimable in their moral character, and esteemed virtuous and good men. Sufficiently proving, that although of necessity obeying the law, men, as subjects, are not therefore inculpate with the evils existing under, or done or resulting through it.

Notwithstanding the general exculpation of men just noticed, it will be proper, before proceeding further, to draw the attention to two great

considerations which arise here ; one as respects the great subject of general and universal humanity, that in cases of wars, nations and people shall not be adjudged by the aggressions and offensive acts of the law that may be unjust, or the errors, failings, or wickedness, or profaneness of their country, customs, habits, manners, or education, or what may be termed defects of local morals ; and which are not therefore rightly considered as subjects punishable for moral turpitude. This, however, must be understood with the exception of the necessity there may be on the ground of retributive justice ; or what may be necessary in the case of offended or aggrieved nations or people to defend themselves, and obtain redress for wrongs and injuries, and security against future aggression ; and so far as manners may affect the subjects individually, and it may be a moral duty, having the power to do so, to correct and repress moral abuses and evils. And the other case as regards individuals themselves, that because evils may be unavoidable, or sanctionable as acts of obedience or law, that therefore men, as individuals, are not to consider themselves as justified or sanctioned in the disregard of rights, or in errors, or vices, or evil, or injustice, or immorality of any kind, because evil is committed under obedience to law ; and which some men might be apt to suppose, from a departure from their duties in particular instances, as alluded to, or to learn or suppose from such circumstances ; and the ill-disposed are prone to take advantage of to justify their bad purposes, where they can, or think they

can, with impunity practise vice and wickedness; for men in all cases, where not the subject of obedience to law in those particular instances in which it may be opposed to morals, are the subject of the moral obligations and duties, and are so held by law itself, which, as a general rule or object, has only the support and promotion of what are so. But in this latter case, as to what is required of men as individuals in duty, (as the subject of this work,) will be treated on shortly afterwards.

On the subject, however, of evil occurring under law, it is to be hoped that it may be considered as a matter not of frequent occurrence, or, at least, that moral injustice and wrong of very great magnitude is not of common occurrence in the acts and measures of obedience required by law of the subjects; and that when they do occur, they may generally be considered of trifling nature compared with the good derived from the peace, and order, and general good derived from it: and that as all law being for the good of men generally, it may be hoped that whatever evil does occur through the necessity of obedience, is far more than compensated for by the general good resulting from it; at the same time, that any evil should occur under law, must be lamented, and is to be avoided, if possible, by every power and exertion of men, both as governors and governed; as opposed to the objects of the law and moral duty; and it is to be hoped that such will be less, as the improved state of men proceeds in their acquirement of knowledge both of polity and morals. Yet as moral evils, as such undoubtedly are, which

arise in moral institutions, as laws as the fabric of men must be considered to be, it is a subject that requires the adversion of a work on morals; and explanation with regard that, as they are human institutions, they will be liable to the errors and failings of men; but yet that, as necessary, they must be borne with notwithstanding for their general good, and that men as the subjects of them shall not be charged for that which, in the necessity there is for their obedience, may be done through their instrumentality; but yet that it is only in such obedience that they can be exculpated, or have any justification.

Under the subject of law it has been observed, that men as subjects are required to respect, and obey, and observe them, and notwithstanding that a disregard of rights, or evil may be committed, or may result in such obedience, or, in other terms, that the acts required of men in obedience to the laws may, in particulars or instances, interfere otherwise with their moral obligations and duties; and that notwithstanding such evil, that men shall not be responsible for it, but shall yet be virtuous or estimable. It is considered, therefore, right to explain further upon this subject, for the purpose of preventing any mistake in what has been said upon it, that men are not answerable for the evil they may do under obedience to law; and to prevent, likewise, the perversion of this justification of their acts, or exculpation of themselves from evil, by the ignorant, or by the wicked, or by the designing, to justify evil, or immoralities, or a departure from their moral obli-

gations or duties. When, therefore, it is said that individuals are not responsible for any evil that may arise from their obedience to the law, it is requisite to observe, that though justified and exculpated, as they may be, in what they shall so do under such obedience, from the evil that may be done, as far as such attaching to them any blame, or charge, or detriment to their moral character, as men or individuals, yet it must be understood that such can only be the case as far as such evil done is required of them in obedience to the law, and with the obedience that is required of them ceasing, their justification or exculpation ceases.

On the idea that men may suppose themselves authorized or justified in committing evil, because they may be compelled to it under the authority of law in the obedience required of them, it is to be observed, that the necessity of such obedience alone marks their excuse, and is the plea of their exculpation, and that their acts which require exculpation are therefore in themselves wrong; but being partial, or occurring only in particular cases or instances, such are deemed necessary to give way to the greater consideration of the good requisite for men in law, and in their obedience to it. The evils, whenever they do occur, are moreover matters of regret and alloy to the good in such institutions necessary for the good of men, and are matters not of esteem, and are only vindicated by the necessity of such powers and authorities or laws being raised for the general benefit of

men. With this consideration, and looking to the conduct of men as that which can only be estimated and judged by the moral laws, the laws in fact of his reasonable nature, and that these impose the moral obligations or duties, men can only be considered or viewed ordinarily by these; and it is impossible to consider the moral justification of the human conduct or of men otherwise than by moral rights, or what is good; for it would be an absurdity to suppose or hold that men were justified in their conduct by evil. Law is but founded for the support and promotion of morals, or the human good, and because it may fail in this, and occasionally in instances produce contrary effects, such cannot be considered as matters of evil, purposely designed or intended as evil; but if it exists, or where it exists as a matter necessary or unavoidable by the subject in his obedience to the law it is tolerated, that it may not oppose the avoiding of the greater evil of opposition to, or disobedience of the law. At the same time, law itself implying good as the duty of men in the foundation on which it rests, or object for which it is raised or constituted, morals or good is the rule or object by which it will adjudge men, and for which it will hold them generally responsible.

Of an opposite nature to the idea or supposition which may arise or be promoted, that because evil is or may be done under law, that therefore evil may be done by men, is the idea that men shall not be bound by the law; or ought not to be

bound by it where it tends to evil, or the duty required of men in its obedience may make men commit partial wrong or evil.

It is a question often raised, whether a man shall obey the law when a point or case of moral duty or conscience shall arise that shall be in opposition to the law, or certain orders or decrees shall be opposed to moral duties in particular instances or cases, and which otherwise than for obedience required of the subject to the law, ought not to be done.

These two questions in morals or human conduct and moral reflections, that first mentioned of men being sanctioned in evil as men, because it may occur under or be sanctioned by the obedience required of men to law, and the present point, so frequently present themselves, that they have been considered fit subjects to be taken into consideration under the subject of moral rights, and as matters of very chief importance to explain, with the view of dissipating certain errors which the mind may fall into in these respects, as also to prevent mistakes occurring upon them.

The case of a man's conscience, or the moral duties where they may be at variance with law, is a painful subject for consideration. But there can be no doubt as a general rule, and for the greater good generally for man, and for the good of mankind, the duty of men, is the duty of obedience of men as subjects to the law, or any man so acting shall be justified; while for the reverse, or in his opposition to the law in what he is positively enjoined, and no alternative or option offers

itself, he shall not be justified. And were it considered otherwise, and every man's conscience or judgement, or the minor evil of the neglect or omission of a moral duty, as a particular case or instance as opposed to the obedience of the law, to be allowed to oppose or disobey the law, every subject matter of opinion that was not right, or did not agree with the notions or ideas of the individuals in respect of law, would be a subject of opposition or disobedience to it. Every infraction of moral rights, or partial, or particular, or petty evil endured under law, would be a subject of men's array against it. Such occasions would be never ceasing, and no law could be maintained with duty or respect, nor indeed exist, nor could peace or order endure in society comparatively for an instant.

On this subject, where men conceive a moral duty, or a matter of conscience requires them to act in any particular way, or to observe or do particular acts or things, and which may be in opposition to law, instances are found among men of their being so pertinacious in their ideas and opinions, that they will expose themselves to the greatest dangers and sufferings rather than depart from the rule they have prescribed, or which they consider is right, or their duty to observe. In contending that the duty of men to law is of paramount necessity, and that what a man considers may be right for him to do from conscientious motives must give way to the law, it is not meant to deprecate any man acting from conscientious motives, or to withhold the merit due, where

such may really be the ground of a man's conduct; nor to be unfeeling for the sufferings he may expose himself to on principle; but it is contended that his own private opinions, or his conscience, are not to interfere with the rest of society, to the unlawful opposition of law, or to the disturbance of the order and system of things that are the established and the received institutions of society. It is contended, therefore, that no man's conscience or opinions shall justify the opposing or disobedience of law which is the regular and established institution of the country or society where he may be, or the orders and regulations which may be issued from the regular and established authorities of any country or place where he may be; for if it be admitted that men are or may be so justified in a departure from or opposition to the law in respect of which their obedience is required, out of a regard, (mistaken no doubt,) to the superior authority of their conscience, or, in other words, from conscientious motives or opinions of their own, the law is superseded by the opinions and consciences of individuals, and must cease to exist, or to be of force and authority, as well as the object of good to be provided for by it in the preservation of peace and order among men through its power of control and authority.

The source of this error in men's minds, that of conceiving what their conscience dictates, or what they think or see is right, is of superior authority to all others for their actions may be manifold, and the idea may arise from very opposite

causes. It may arise from enquiry and investigation as to what is critically right, or the better way of acting, or it may arise from prejudices or errors; and supposing or considering that, that only can be right, or is the better way of acting, which accords with their prejudices or errors. And as these notions have been found to be entertained by men, by all the knowledge and experience history furnishes concerning man, and many instances are afforded in the present day, and may from the constitution of human nature always pervade the moral world, it appears a proper subject to be noticed in a general consideration of morals. But it must be obvious that, however men's consciences and their judgements must be respected in that which is considered or meant as morally right, their dictates never can be admitted in opposition to morals or moral necessities.

Whatever be the source of this notion, there is one point to be adverted to, and that is, that men appear to overlook the relative circumstances in which they may be placed, or which their actions or conduct may concern; and they consider, the ideal good or abstract notions of good, or, blind in their prejudices or errors, that these are rather than the moral rights as far as they are capable of being effected, or the practicable good, as that which is their authority or guide in this respect. The good, or that which is morally so, is that which is conformable to reason, and the guide and direction men have in this respect, is that which is practicable, or that which is the better way of acting under all circumstances in which

they may be placed, and viewing all relations, matters, and consequences, as far as the judgement permits, and can be effected, in distinction to impossibilities or the ideal good, and under which rule of the practicable good, the paramount duty of men as subjects of obedience to law in all moral concerns or consideration is comprehended; and therefore in respect of law, as the paramount authority of men as subjects, they are to consider the relation or connexion of their actions, and what is practicable with regard to these, and is in agreement with or not opposed to that which is required of them in these respects, or the good most practicable in conformity with the law, as that may exist wherever they may be.

In concluding the subject of law, a question will necessarily arise on this, whether law is always so regardful of moral rights, or productive of good, as to sanction men's obedience to it, and whether there may not be cases where the evils and vice of law may be such as not to warrant their support, or men's obedience?

The view taken here of law is, as to its import being good, and as to men as being subjects, and which would on due consideration almost answer the question, or supersede the necessity of the inquiry, whether law may not be such as not to sanction the support of it, or men's obedience? Because the case viewed here, applies or is considered only in respect of law for the good for which it is necessary, and where men are the subjects, and for that good as a consequence, that obedience is requisite; and that if law were other-

wise, it is not that good which is contemplated, consequently men are not such subjects of it as alluded to. But as in a work of science, and seeking the truth in all that is promulged, it would be leaving the subject in an evasive manner, and open to question and interpretation injurious to the subject of morals, and therefore, as a work professing the instruction of men upon morals, would be imperfect in this respect, without some solution of the question propounded; it is therefore proposed to meet this question as one of moment; and it would be a dereliction of that duty an author owes to his subject and the reader, were it neglected or omitted.

In what will be said, it is furthest from and opposite to every doctrine or intention, to promote principles hostile to good law; and it is in the confidence of the best wishes and desires to further the object of the most profound duty and respect to such as have authority and power over men as subjects, that the question is propounded, and that no offence shall be given, or fear or alarm shall be dreaded on this head.

On the question, whether law is always good, or of such general good and benefit as to make the duties of men as subjects imperative, or whether cases may not occur to release or dissolve men's obedience; or in other words, whether the law may be so bad as opposed to moral rights, as not to have any just right or claim on the subjects for obedience, or forfeit the duty and obedience of the subject, and that men would be justified in opposing it on the ground of its vice and evil;

it is a point that must be admitted, that cases may exist where law may be so pernicious or productive of so much evil, that any good may be not only questionable, but it may be that it may be quite obnoxious to all good or benefit of man; and men as a body, as to good or benefit, might be far happier and better without such law as might exist, and many may be the cases where opposition to law, reform, and alteration, may be justified and necessary. That cases may exist where law may be so weak and vicious, or pernicious, and opposed to moral rights, and to all human benefit, are afforded by history is certain; as such instances are found in the cases of conquerors deposing monarchs and princes, they overthrow, or vanquish, assigning as a reason or justification, their bad rule, the injustice of the decrees, rules, and ordinances, the oppression of the subjects under their charge, as well as wrong and injustice suffered by the conqueror, or his people, or subjects under his care. All usurpers, likewise, assign as a reason and justification of their ascending the thrones of those deposed by them, or the law put down, or whose authority they succeed to, the bad rule and conduct, weakness or oppression, existing under such predecessors. So all popular commotions, or risings of people and nations against the constituted law, where justified or justifiable, are on the ground of the evil, the oppression and bad rule, and which are opposed to moral rights; and all dynasties, probably the most remote and ancient, as well as those known in modern history, will be found.

when inquired into, to have owed their exaltation on account of the bad rule, or injustice; oppression, and tyranny of predecessors, either real or alleged; so that it must, on due reflection, be admitted evil or bad law may exist, and to that degree or extent which may warrant or justify the interference of the subjects, as a collective body, and alteration or reform being admissible, and of such being consonant to the benefit of man, and consequently good and moral, or not otherwise.

This being the case, it must not be understood that it is meant to be said, that in the obedience of individuals to law, that there may be no cases where law may not be of so much evil, as it ought not to be opposed and corrected, and that no case can occur wherein the obedience of subjects may be absolved; for such must be admitted, or the history of men and nations be denied, or the system or form in which the established or the constituted laws of any time may exist, or dynasties reign, have no foundation or authority. Although, then, there may exist such cases where men's obedience to law may be absolved, or cease to be a moral duty or obligation, or ought to be so considered, this question has only been adverted to, whether law may not be of that nature as to justify men's opposition, and withdrawing their obedience, or in which men are not otherwise than justified in opposing or resisting them, or altering or reforming them; in order to justify the doctrine of obedience to government and law, and from the charge or supposition that a blind obedience is due, under all circumstances, and there

idea that no possible case can occur, wherein men may not be justified in ceasing their obedience; or opposing tyranny, however it may be aggravated; and that evils cannot occur under law; or that no evil that can exist under it, can justify men's alienation from it, but that they must and ought to submit, under all or any circumstances; no matter how much injustice, oppression, or tyranny may exist, and misery endured, and suffered, and experienced. All reason and history prove the contrary fact, to blind obedience, under the excess of misery and oppression, under bad law, or tyrants, and therefore is it that to rescue this work and moral doctrine from such misconstruction and obloquy, the subject has been introduced as the concluding matter; assured no potentate, or constituted law upon earth can be offended, or imagine, by mentioning it, or explaining that such is not meant to be affected here, or that offence or hostility is meant to any, or that the sentiments or opinions in this work are intended otherwise than to encourage respect and allegiance to all law having in its object good, and promoting that good, or the moral rights, among those under its authority, protection, and care.

With this it is proper to take leave of the subject of morals, in respect of the duties of men, considered here; for what that state or effect of law may be, wherein the evil shall be preponderant, as men shall in morals cease to venerate the law, or that can it be justly said, it ceases to have a claim for obedience from the subjects, must be here declined to be entered upon; for the ques-



be ever obviated, the Author concludes his work with his most fervent prayer and hope, that it may, by men learning to proceed with knowledge and reason, and ceasing to persist in errors and prejudices.

THE END.

